

NOTICE OF FILING

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Form 59
Rule 29.02(1)

Affidavit of Kim Wells

VID 1023 of 2023

Federal Court of Australia
District Registry: Victoria
Division: General

MOIRA DEEMING

Applicant

JOHN PESUTTO

Respondent

Affidavit of: **Kim Wells**
Address: [REDACTED]
Occupation: Member of Parliament
Date: 24 May 2024

I, Kim Wells, of [REDACTED], say on oath:

Background

1. I am the elected Member of the Legislative Assembly in the Victorian Parliament for the seat of Rowville. I have served as a Member since 1992 – representing Wantirna (1992 to 2002), then Scoresby (2002-2014), then Rowville (from 2014).
2. I joined the Liberal Party in 1984.
3. I was elected as the Liberal candidate for Wantirna at the 1992 Victorian state election.
4. In 2000, I was appointed Shadow Minister for Corrections, Police and Emergency Services.
5. From December 2006 to December 2010, I was the Shadow Treasurer.

Filed on behalf of (name & role of party)	Moira Deeming, Applicant
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6. From December 2010 to March 2013, I was the Treasurer of Victoria in the Baillieu Coalition Government. From March 2013, on Premier Baillieu's resignation, I became Minister for Police and Emergency Services and Minister for Bushfire Response in the Napthine Coalition Government.

Exhibit KW-1

7. Exhibited to this affidavit is a paginated bundle of documents marked 'Exhibit KW-1'.

Factual Summary

8. Prior to 19 March 2023, I knew little about Moira Deeming, a new MP elected at the 2022 State election. I had had a brief conversation with her when photos were being taken for the Parliamentary handbook. I had never met nor heard of her before she was preselected.
9. I recall Deeming spoke in Parliament and said she would be attending a Let Women Speak rally and invited everyone to attend.
10. On Sunday 19 March 2023, I saw a brief report on the television news of a rally outside Parliament House on 18 March 2023. I did not pay much attention to it and to the best of my recollection it did not mention Deeming.
11. That evening, I received a phone call from John Pesutto, the Leader of the Opposition for the Liberal Party in Victoria. He said that Deeming had attended a Let Women Speak rally at Parliament House that she had organised. He said that she spoke at the rally and had organised a group of Nazis to attend the rally. He said he had no other option but to expel her. I said that if those accusations were true, she had to go.
12. I considered this was a very serious accusation. I was horrified that a Member of Parliament could possibly organise Nazis to attend a rally for support. They represent a hateful, violent and lawless history and set of beliefs.
13. A short time later, I received an email from Pesutto with a media release announcing the Liberal team's intention to expel Deeming for attending a rally with Nazis and for associating with Nazis and bigotry.
14. On the morning of 20 March 2023, Pesutto went to the media to explain why Deeming was being expelled. I have been a Liberal Party Member of Parliament for 31 years, and a member of the Liberal Party for 44 years. Expelling a Liberal MP was a serious internal matter and should, in accordance with the established party practice and tradition that I had experienced over my decades within the party, have been dealt with behind closed doors by the Members of the Parliamentary Liberal Party and not in the media. I considered that it was unforgivable that Pesutto had breached this important party practice

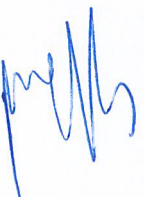
and tradition. Whoever advised him to run straight to the media should be sacked. If this was his own decision, it showed a dreadful lack of political judgment.

15. I listened to Pesutto's interview on 3AW with Neil Mitchell on 20 March 2023. He gave Mitchell the reasons for expelling Deeming but they were different to what he had said to me the night before. The accusations he made about Deeming in this interview did not make sense to me and did not justify expulsion.
16. I understood he was accusing Kellie-Jay Keen, the speaker at the rally, of being associated with Nazis. I understood he was saying she was a Nazi and that Deeming should be expelled because she associated with Keen. That was not the same as when he had told me (the previous evening) that Deeming had organised the Nazis to turn up to the rally.
17. I needed to understand what had happened and decided to ring Deeming to verify what Pesutto had said. I rang her that morning and she told me what she said happened at the rally and the following:
 - (a) After the rally, on the Sunday, she was asked to attend a meeting with the four leaders and Pesutto's Chief of Staff, Rodrigo Pintos-Lopez. At the time Deeming did not know his name.
 - (b) During this meeting, at no time was she afforded the chance to have a support person with her.
 - (c) The five of them were firing off questions, one after the other, accusing her of associating with Nazis. When Deeming asked for any proof, they refused to show her.
18. Throughout our conversation, Deeming sounded shattered and angry that she was being falsely accused of associating with Nazis.
19. The treatment of Deeming during that interview process has angered me because there was no procedural fairness. From that point, I became particularly suspicious of the accusations.
20. On Monday evening, Pesutto sent the Members of the Parliamentary Liberal Party the Expulsion Motion and the Dossier which I read.
21. I spoke to other Members and said the accusations made no sense and that Deeming should not be expelled for this. About six of the Members I spoke with told me that they believed the accusations in the Dossier were true.
22. On 21 March 2023, on the way into Parliament, I walked past some media representatives who asked for comment about Deeming. I told them that I did not understand what offence Deeming had committed justifying her expulsion.

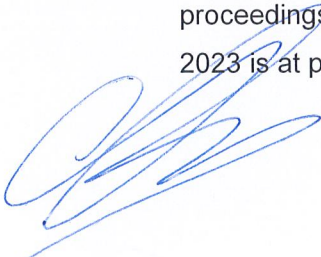
23. At the meeting of Members that day, I said I wanted the motion to be delayed at least until after the Aston by-election on 1 April 2023, because I did not understand the hanging offence that Deeming had committed. I also said that the information in the Dossier did not justify the Expulsion Motion and we needed to understand the facts of the situation before making a decision to give everybody time to think clearly and find a better way which would save face for Pesutto and save his leadership. I wanted the temperature to lower before any decision was taken about the issue. I recall Richard Riordan and Nick McGowan also wanted the Expulsion Motion to be delayed. My recollection is that McGowan told the meeting that we should not smear a new MP with allegations of Nazism. I recall that about six to eight other Members expressed the view that the seriousness of the materials in the Dossier meant the motion had to be dealt with immediately. The meeting voted to go ahead with the Expulsion Motion on 27 March, the earliest possible date under the Constitution.
24. I met Pesutto personally that day and possibly three times altogether over the next week and also spoke by phone to him on a number of occasions in the run up to the motion to expel Deeming. I said that what he had done was wrong and if he lost the motion he would have to resign. I said there was no substance to the accusations against Deeming. Pesutto kept saying he had to follow through with his motion or it would be a sign of political weakness. I pointed out that either way it was going to end in tears.
25. I said the result should not be expulsion even if he thought she had done something wrong. I suggested a lesser course of counselling or mentoring her as a new MP might be better. He said the evidence was all there in the Dossier that she had associated with someone who associated with Nazis. I said relying on Wikipedia for the evidence was embarrassing and this was a change of story from the original conversation I had with him (when he had said she had organised a group of Nazis to attend the rally). He said the Leadership Team would not be wavering.
26. Accusing someone of associating with Nazis is shameful - if the accused has done it but equally shameful for the accuser if the accused has not. Many of my branch members with whom I discussed this issue have expressed the same view as to the seriousness of the allegations about Nazis.
27. On 27 March 2023, going into the meeting of Members, I estimated that the vote was 19 to 11 to expel Deeming. To the best of my recollection, approximately 10 Members who spoke in favour of the motion expressed views that the contents of the Dossier were true and justified Deeming's expulsion. However, during the heated debate it became evident to me that the numbers were shifting in favour of not expelling Deeming. The numbers I estimated in the end were 16 to 14 in Deeming's favour. Deeming spoke incredibly well in her defence but she was visibly upset when discussing the accusations. I also spoke

during the meeting and expressed that I opposed the motion. After Deeming spoke, Pesutto [REDACTED] called for an adjournment to see if there were other options.

28. David Hodgett and I were called over to Pesutto and David Southwick and we were asked if Deeming would accept a 12-month suspension.
29. Hodgett and I went to speak to Deeming to ask if this was acceptable. Ryan Smith joined us. Deeming was, quite rightly in my view, still visibly very upset about all of the accusations made about her. She said to me that being accused of associating with Nazis would stick with her for her whole life. She said no to the suspension as she had done nothing wrong. She wanted a joint statement from Pesutto and herself, exonerating her from all accusations regarding the rally. Smith and I went back to Pesutto and Southwick and explained Deeming's position.
30. Pesutto refused and said there had to be a suspension of 12 months. Smith and I went back to Deeming. She flatly refused to accept any deal unless there was a full exoneration of everything in the Dossier including that she had brought the Parliamentary Party into disrepute, and any insinuations that she was in any way associated with or guilty of any kind of bigotry or Nazism. This had to be published in a joint public statement with Pesutto. She said she would rather be expelled if her family's name was not cleared. Smith and I went back to say Deeming was not happy but reluctantly accepted a 9-month suspension and a full exoneration in a joint public statement with Pesutto.
31. Pesutto, Southwick and Georgie Crozier orally agreed to the compromise that included a full exoneration in a joint public statement between Deeming and Pesutto.
32. Once the agreement was reached, Pesutto announced to the room that a compromise had been reached. The compromise was that Deeming would be suspended for 9 months and that a joint statement from him and Deeming would be issued after the meeting which would make it clear that no one was accusing Deeming of being a Nazi or a Nazi sympathiser. When Pesutto said this, Deeming was upset and said 'Yes you did' (meaning she was saying he had accused her of being a Nazi or a Nazi sympathiser). I told her to be quiet because I thought Pesutto was just summarising and that he would fulfil the deal he had made with me and Smith on Deeming's behalf, which was that there would be a full exoneration. Pesutto's announcement of the compromise was met with a round of applause.
33. I had a meeting to attend that afternoon/evening and could not stay with Deeming to prepare the joint statement with Pesutto, so I asked Hodgett to fill in and complete it. I was regularly on the phone with Deeming and Hodgett at separate times.



34. Deeming phoned me to tell me that she had walked out of the first meeting because Pesutto was not at the meeting and because Southwick had handed her a statement to sign that was the complete opposite to what had been agreed in the party room. She told me that she felt betrayed, and that Southwick had told her if she did not sign the statement, the party room would expel her. I reassured her that the party room had agreed to a joint statement with full exoneration, with 9 months suspension. I spoke to Deeming on the phone and said words to the effect of "*Just get your part done first, and I will make sure Pesutto does his part*". If I had known there was never going to be a joint statement, I would have stopped negotiations. In hindsight, I honestly believed what was agreed to in the party room was going to be fulfilled by the Leadership Team.
35. During one of the calls with Deeming, she was angry that I was trying to calm her down and said that, when she and Hodgett had met with Southwick, he had admitted to her face, in front of Hodgett, that when they decided to expel her they didn't have the evidence organised and that's why they couldn't show her the laptop on the Sunday night.
36. Later that evening, I heard Pesutto's comments in the media about the meeting saying that he had agreed to Deeming's suspension as a result of concessions she had made that morning. That was a misrepresentation of Deeming's speech in the party room and Deeming's response to the Dossier she had sent to Members that morning. This was the complete opposite of what she had agreed to. Deeming did not make any concessions whatsoever.
37. Pesutto did not join in making the statement with Deeming and did not exonerate her from the accusations he had made. I considered this was a complete breach of trust and a breach of the agreement I had helped broker between Pesutto and Deeming, that was announced to the party room, on 27 March 2023.
38. Parliament went into recess for the Easter break during April. I had numerous conversations with Deeming who was very bitter about the way she had been treated. She felt she had been double crossed and I agreed.
39. On 24 April 2023, Southwick texted me wanting to set up a meeting between Pesutto, Southwick and me. I responded saying I thought it would be a waste of time and that I was going to ring Deeming that night to clarify Southwick's claim that Deeming had given the party room minutes of the meeting on 27 March 2023 to Peta Credlin. Southwick responded by saying that "*some[one] has*". My text refers to "*the legal aspect of the [D]eeming case*". That was a reference to my understanding that, if Pesutto and the Leadership Team did not resolve the situation, Deeming was going to issue defamation proceedings against Pesutto. A copy of my text exchange with Southwick on 24 April 2023 is at pages 1 to 4 of Exhibit KW-1.



40. On 26 April 2023, at 12.50pm, Deeming sent me an email. A copy of that email is at pages 5 to 6 of Exhibit KW-1.
41. On 26 April 2023 at 2pm, there was a meeting between Pesutto, Southwick and myself. Pesutto restated that he stood by the wording of the original Expulsion Motion and the only thing that had changed was the punishment - that is, it was no longer an expulsion but a suspension. I understood he stood by his accusations against Deeming.
42. I responded by saying that if the party room knew that the wording of the original motion still stood, then Deeming would never have accepted the suspension. I said that it was obvious to me that the Leadership would tamper with the minutes from 27 March 2023 to suit a desired outcome. The meeting became quite heated.
43. I said there needed to be a joint statement from Pesutto and Deeming providing her with full exoneration as was agreed in the party room. Pesutto said it was agreed to be a jointly prepared statement for Deeming with his office. I said "*that's not true*".
44. A copy of my notes of the meeting between Pesutto, Southwick and myself on 26 April 2023, which I prepared during the course of the meeting, is at pages 7 to 8 of Exhibit KW-1.
45. On 2 May 2023, there was a meeting of Members. Pesutto said there were three sets of minutes prepared by Renee Heath as Secretary. After discussion, it was agreed that a meeting would take place between Pesutto, Southwick, Heath, and myself to finalise the minutes of the meeting on 27 March 2023. This was carried without dissent. A copy of the minutes of the meeting on 2 May 2023 is at pages 9 to 10 of Exhibit KW-1.
46. On 3 May 2023, Deeming and I had a meeting with Southwick in Deeming's office where Southwick agreed to sort out Pesutto's part of the full exoneration, and that it would be done by the next day.
47. At 6.45am on 4 May 2023, Deeming sent an email to Pesutto asking that the Leadership Team confirm in writing that the agreement that Southwick had made on 3 May 2023, in front of Deeming and myself, was going to be fulfilled. Deeming forwarded me that email at 10.38am. A copy of those emails is at pages 11 to 12 of Exhibit KW-1.
48. On the morning of 4 May 2023, Deeming arrived at my office just as Southwick sent me a text message wanting to meet with me. I asked Deeming why Southwick would be wanting to meet with me. She told me about the email she had sent to the Leadership Team. She explained that she did not trust them to not double cross her again unless she had it in writing. I had not had any input into this email. I did not agree to the email but understood her frustration. When Southwick arrived at my office, he was furious about the email and asked Deeming if she had written that with a lawyer so that she could sue them. I said

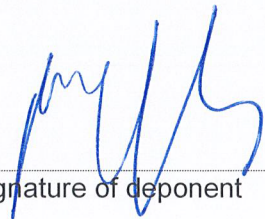


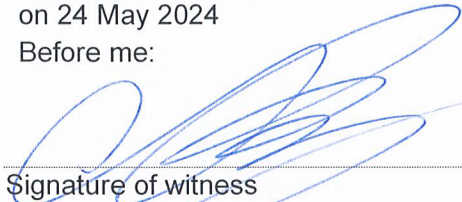
that was complete rubbish and that the Parliamentary Party was never going to be sued. Deeming said words to the effect "No, I just wanted to see if you were wasting my time all along or if you were going to fulfill your side of the deal about the exoneration". Southwick backtracked on the deal that was made the previous day and said that he did not remember making the deal and that if Deeming was putting a deadline on the exoneration, then all deals were off.

- 49. Deeming said she had had enough and that she was going to email the Parliamentary Members and ask for a lawyer to arbitrate a redo of the meeting.
- 50. On 6 May 2023, a second motion to expel Deeming was sent to Members but did not provide reasons as required by the Constitution. Pesutto should have ruled it out of order but as Chairman and Leader accepted it regardless.
- 51. On 12 May 2023, there was a meeting of Members to vote on Deeming's expulsion. Pesutto, without proper authority, reneged on the motion from 2 May 2023 and strangely provided his own set of minutes for 27 March 2023. This was a first for the Parliamentary Liberal Party. I thought it was designed to support his own narrative to suspend Deeming. A copy of Mr Pesutto's minutes of the meeting of 27 March 2023 is at pages 13 to 14 of Exhibit KW-1.
- 52. Pesutto told the MPs to keep all communications because they might be sued by Deeming. Bev McArthur asked to see the letter making the threat. Pesutto refused to produce it. Deeming was then expelled, and the vote was 17 to 12.
- 53. [REDACTED]

Sworn by the deponent
at Scoresby
in Victoria
on 24 May 2024
Before me:

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Signature of deponent


Signature of witness

ANTHONY LEO RASO
[REDACTED]
An Australian Legal Practitioner
within the meaning of the
Legal Profession Uniform Law (Victoria)