

NOTICE OF FILING

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Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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Affidavit

No. VID 1023 of 2023

Federal Court of Australia
District Registry: Melbourne
Division: General Division

MOIRA DEEMING

Applicant

JOHN PESUTTO

Respondent

Affidavit of: **John Pesutto**
Address: 197-199 Riversdale Road Hawthorn 3122 Victoria
Occupation: Victorian State Member of Parliament
Date: 22 July 2024

Contents

Document number	Details	Paragraph	Page
1.	Affidavit of John Pesutto affirmed on 22 July 2024	1	1
2.	Annexure "JP-37 " being a copy of the email from the office of Moira Deeming to the office of John Pesutto on 16 March 2023	5	27
3.	Annexure "JP-38" being a copy of the transcript of the press conference conducted by John Pesutto on 27 March 2023	30	29
4.	Annexure "JP-39" being a copy of the Sky News Article titled 'Sky News Australia reveals Moira Deeming speech that saw her avoid expulsion from Victorian Liberal Party on Monday' published on 27 March 2023	35	45

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John Pesutto



[Version 3 form approved 02/05/2019]

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Document number	Details	Paragraph	Page
5.	Annexure "JP-40" being a copy of the Sky News Article titled: 'Moira Deeming reveals the terms of her Liberal Party suspension and why she will continue fighting for women's rights ' dated 18 April 2023	36	51
6.	Annexure "JP-41" being a copy of the track change versions of the party room minutes prepared in May 2023	41	57
7.	Annexure "JP-42" being a copy of the text message exchange between John Pesutto and David Southwick on 1 May 2023	60	71

I, **John Pesutto**, State Member for Hawthorn and Leader of the Victorian Liberal Party, of 197-199 Riversdale Road Hawthorn VIC 3122, in the State of Victoria, solemnly and sincerely affirm:

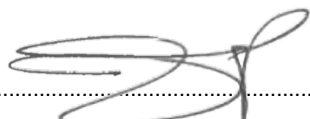
1. On 27 May 2024 I filed an affidavit in this proceeding (**First Affidavit**). I adopt the naming conventions used in that affidavit.
2. Between 21 May 2024 and 27 May 2024 a number of affidavits were filed on behalf of the Applicant in this proceeding, most of which I have seen. In this affidavit I respond to some parts of those affidavits that directly refer or relate to me, as well as some of the allegations made by the Applicant in her Reply or in respect of issues on which she bears the onus of proof. Any failure to address any assertion made by the Applicant or in one of the affidavits filed on her behalf or her pleadings, does not mean I necessarily agree with that assertion, particularly where I have previously given evidence on that matter or do not have personal knowledge or clear recollection.

Conversation with Mrs Deeming in approximately January 2023

3. At paragraph [39] and [40]-[41] of her affidavit, Mrs Deeming refers to two conversations between us, where she allegedly discussed her advocacy on sex-based rights and mentioned her plan to attend the LWS Rally and mentioned Ms Keen. I do not recall two such conversations taking place, or any conversation taking place at the Coalition conference in January 2023. However, prompted by Mrs Deeming's affidavit, I now recall one conversation in early 2023 which might be one of the conversations that Mrs Deeming is referring to. My recollection of that conversation is slightly different to Mrs Deeming's in that, to the best of my recollection:

- (a) that conversation took place by phone after Mrs Deeming had called me;
- (b) Mrs Deeming conveyed that certain people she had connections with were coming to town, and she suggested I meet them. I do not now recall the language Mrs Deeming used to describe those people, and I do not actually recall Mrs Deeming mentioning Kellie Jay Keen by name. It is possible that Mrs Deeming mentioned Ms Keen (and possibly others) by name, moniker or organisation (whether by Kellie Jay Keen, Posie Parker or some other

John Pesutto



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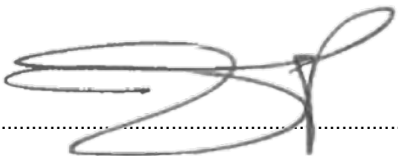
organisational name such as "Standing for Women"). However, at that time, I had no idea who Ms Keen was, or the names of the various organisations she apparently leads, so her name or their names would not have meant anything to me. Nevertheless, I was left with the impression the people coming to town were activists in relation to transgender issues; and

(c) I do not recall Mrs Deeming mentioning the proposed Let Women Speak Rally on 18 March 2023, or her inviting me to meet Ms Keen before the Rally on 18 March 2023. However, I do recall her inviting me to meet her visiting connections when they were in town. I do not believe that I "agreed" to meet Ms Keen on 18 March 2023 prior to the Rally – that is not something I would usually do in that circumstance. Rather, I believe I would have been more non-committal and likely invited Mrs Deeming to contact my office regarding any proposed meetings, as my office manages my diary.

4. Until reading Mrs Deeming's affidavit, I was not aware that Mrs Deeming had apparently contacted my office and made an appointment with my office, let alone one for me to apparently meet with Ms Keen. Lots of people make bookings with my office without my knowledge. That is because I do not manage my diary but rely predominantly on my Chief of Staff and other office staff to do so. In the ordinary course, my staff conduct a diary review around once a week to confirm meetings and to provide instructions to my policy team to investigate relevant meetings, policy, and attendees. In advance of meetings, I would ordinarily receive a briefing, running sheet, and biographies of attendees. That material is usually provided to me at least the evening before in my nightly planner.

5. I have reviewed the email from my office to Mrs Deeming's office on 16 March 2023 which Mrs Deeming has discovered. A copy of that email is Annexure **JP-37** to this affidavit. I was not involved in that email being sent and assume it was done in the ordinary course of managing my diary.

6. [REDACTED]

John Pesutto 

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Events of 18 March 2023

7. I refer to paragraphs 2.4 and 6.3 of Mrs Deeming's Reply, in which Mrs Deeming alleges that, at the time of the Publications, I did not believe that any of the imputations alleged by her were true by reason of my knowledge of various matters listed there, including most relevantly a suggestion that the neo-Nazis did not attend or participate in the Rally, but rather were present on the steps of Parliament House for a Protect the Children rally. Prior to being made aware of this allegation in Mrs Deeming's Reply, I do not recall being told, or seeing any suggestion, that the neo-Nazis attended Parliament that day to support a different Protect the Children rally, which was separate to the LWS Rally. In particular, contrary to Mrs Deeming's allegation at paragraph 6.3(a) of her Reply and paragraph 94 of her affidavit, Mrs Deeming did not tell me on 19 March 2023, that the neo-Nazis did not "attend" the LWS Rally. On the contrary, as I explained at [91] of my first affidavit, at the meeting on 19 March 2023, I accepted Mrs Deeming's then explanation that she did not know the neo-Nazis or that they planned to attend the Rally. However, based on the media reporting and Mrs Deeming's statements to me at the time and at all times up until the Reply (see, for example, her statement dated 20 November 2023, referred to at paragraph [72(l)(i)] below), I understood that the neo-Nazis did "attend" the Rally (to my mind, there was no question about that fact in March 2023, and certainly no question in either the mainstream reporting, Mrs Deeming's contemporaneous statements, or even in the Video, even if such attendance was at all times regarded and described by her and the other organisers as 'gatecrashing').
8. In any event, having heard Mrs Deeming's account and accepted as she claimed that she had no involvement in the attendance by neo-Nazis that day, as I observed in paragraphs [85] and [91] of my First Affidavit, my primary concerns were that she had not left the Rally, had not unambiguously denounced or distanced herself from the publicly reported neo-Nazi presence at the Rally or the offensive social media posts or negative public associations of Ms Keen or Ms Jones, and had instead celebrated the apparent success of the event despite the publicly reported neo-Nazi presence.

Meeting between the Leadership Team and Mrs Deeming on 19 March 2023

9. I have read Mrs Deeming's account of the 19 March 2023 meeting. I refer to and stand by my recollection of that meeting as described in my First Affidavit. Generally, I consider Mrs Deeming's account of that meeting:
- (a) emphasises her alleged contributions to the discussion, which in my recollection were of less prominence than is suggested by Mrs Deeming; and
 - (b) focuses on alleged child safe-guards and sex-based rights, whereas the focus of my concern and how I sought to frame the discussion was the use of Nazi symbols and analogy.
10. As I noted in my first affidavit, I do not recall everything that was said at that meeting. However, I make the following specific observations regarding Mrs Deeming's account:

John Pesutto



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.....Witness

- (a) to paragraph [60], I do recall suggesting to Mrs Deeming at one stage that she may be better suited to being an independent MP. I think it is unlikely I used the term “fringe” to describe her views on sex-based rights and transgender issues, as I recall being conscious at the time of the fact that the intersection of faith-based rights and transgender rights is a sensitive area, and I was conscious that using terms such as “fringe” might arm Mrs Deeming to criticise me in faith-based communities. However, it was and remains my view that this is not an issue that the majority of Victorians consider to be a key issue, and I was disappointed that Mrs Deeming’s almost singular focus on those issues was again going to make it difficult for us to present ourselves as a credible alternative government;
- (b) to paragraph [61], I recall saying to Mrs Deeming words to the effect that, every time you speak about these issues, as it is such a contentious area, you need to proceed delicately in your language, otherwise you risk taking us off message on the key issues we need to prosecute in order to win the election;
- (c) to paragraph [63], I strongly disagree that Mrs Deeming was ‘attacked’ at all during that meeting, or that she was attacked for her ‘advocacy for sex-based rights and child safeguarding’;
- (d) to paragraph [64], I do not believe I used the phrase ‘third strike’ and nor do I recall anyone using that language. I also do not recall any mention of Mrs Deeming’s International Women’s Day speech. However, Mrs Deeming’s ability to work as part of an effective team member of the Party having regard to her conduct in the preceding 3 months was, as described above, relevant to my thinking at the time;
- (e) to paragraph [66] and [67], I recall asking Mrs Deeming to the effect, do you know any of the people who were there? [REDACTED]
[REDACTED] This was part of my attempt to understand what had taken place at the Rally, as it was important to me to ascertain the facts, including Mrs Deeming’s involvement, if any, in those events;
- (f) to paragraph [69], I do not recall using the phrase 'known supporter of Nazism', and I think it is unlikely I did so because that is not how I would have phrased such an allegation;
- (g) to paragraph [70] and [97], I do not recall Rod turning a laptop away from Mrs Deeming or anyone refusing to show her any of the material Rod had found, and I do not consider that happened, as we were trying to convince her to take the action we believed necessary in response to that material, and I would have recalled if that had happened. I do recall saying words to the effect that, it didn’t take long to find this information, and Dan Andrews’ team or the government would have found it in no greater amount of time;
- (h) to paragraph [71], I do not recall Mrs Deeming expressing doubt as to the veracity of any of the material that was raised with her during that meeting. My recollection is that Mrs

John Pesutto



DF

.....Witness

Deeming's responses to the material or social media were not to the effect that these were not real posts or Ms Keen had not done what had been reported, but rather to the effect we were misinterpreting it, taking it out of context, and/or not recognising that it was just a joke;

- (i) to paragraph [72], I do recall Mrs Deeming saying something to the effect that she would not denounce Ms Keen or her organisation as being involved in Nazism without seeing evidence;
- (j) to paragraph [75], I do recall Mrs Deeming saying on more than one occasion words to the effect that it was not her fault, or the fault of the organisers of the Rally;
- (k) to paragraph [76], I recall Mrs Deeming saying words to the effect that Ms Jones was of the left. That was irrelevant to me and my concerns. I also recall Mrs Deeming saying words to the effect that the Jones Tweet had been taken out of context, and that it was one tweet in a thread. That suggested to me, that contrary to what Mrs Deeming claims at [76], she was in fact already aware of the Jones Tweet prior to the meeting; and
- (l) to paragraph [77], it is not clear to me if Mrs Deeming is suggesting she said words to the effect that we would not even show her matters on the laptop screen. If she is, I disagree that Mrs Deeming said such words. However, I do recall that a theme throughout the comments made by Mrs Deeming during the meeting was that it was not fair and it was not her fault.

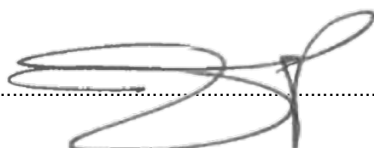
11. At paragraph [94] Mrs Deeming has stated that she understood a motion was being moved to expel her because the Leadership Team viewed her advocacy for sex-based rights and safeguards as 'fringe'. I do not understand how Mrs Deeming could have formed such an impression given that it is inconsistent with what we said to her and was not why we felt compelled to move the motion. In any event, if that was Mrs Deeming's understanding of why we were moving a motion to expel her, it is not correct. In that regard, I refer to my explanation in my First Affidavit, including at [95]-[96].

Phone calls to MPs after the 19 March 2023 meeting

12. At paragraph [57] of David Hodgett MP's affidavit, Mr Hodgett describes the effect of what he recalls me telling him during the call I made to him on the evening of 19 March 2023. Mr Hodgett's recollection is consistent with what I recall telling the MPs I called that evening, and is also consistent with my knowledge and understanding at the time.

13. Kim Wells MP gives an account of a conversation that evening at paragraph [11] of his affidavit. Although she was not a party to the conversation, at paragraph [111] of her affidavit, Mrs Deeming also alleges that I told Mr Wells that Mrs Deeming had organised for Nazis to attend the Rally. I do not recall saying that Mrs Deeming organised a group of Nazis to attend the Rally, and do not believe I would have said so as I did not and do not believe that to be true. I would have used similar words to the same effect as those described by Mr Hodgett concerning the phone call I made to

John Pesutto



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him, which reflected my knowledge and belief. I do not recall what Mr Wells said in response during the call with him.

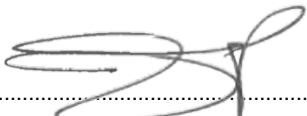
14. In her SOC at paragraph 38.5(d) Mrs Deeming alleges I called MPs to say I was moving a motion to expel Mrs Deeming because she had arranged neo-Nazis to attend the Rally. For the reasons I explain at [13] I did not and would not have said that. In that paragraph Mrs Deeming continues 'and (on his behalf) that the Leadership Team had the evidence that [Mrs Deeming] was a closet Nazi'. To my knowledge Mrs Deeming has not filed any evidence in support of that allegation. To the extent Mrs Deeming continues to allege I told any MPs that Mrs Deeming was a closet Nazi, or that the Leadership Team or I had evidence in support of such an allegation, I deny it. I never believed that or held any such evidence, and did not and would not have said such a thing. Further, it makes no sense to me that I would have said it, as I always planned to detail the basis for the expulsion motion, and the evidence we had in relation to that motion was always going to be disclosed to my colleagues, so it would have been quickly apparent to them that no such allegation, or evidence, was contained in the Expulsion Motion and Dossier. To the extent Mrs Deeming alleges that such statements were made on my behalf, while I cannot speak for the entire Leadership Team and the contents of any phone calls they made, I consider it to be highly unlikely any of them said such a thing for the same reasons I did not. For the avoidance of any doubt, if they did, it was not at my direction or request.

Events between 19 March 2023 and 27 March 2023 meeting

15. Mrs Deeming has alleged in her Reply that I released the Expulsion Motion and Dossier for an improper purpose, and in contravention of cl 55(d) of the Victorian Parliamentary Liberal Party Constitution and long-standing convention. In paragraph [14] of Mr Wells's affidavit, he says speaking to the media was a breach of "established party practice".
16. I do not understand how my conduct is said to contravene cl 55(d) of the Constitution, given I was and am the leader as referred to in clause 55(d). Further, I reject any suggestion I contravened any "established party practice" or long-standing convention – as far as I am aware, there is no such convention or established party practice, and I am not sure what Mr Wells is referring to, given there have been so few similar recent circumstances involving a motion to expel an elected member, save for Bernie Finn. As to my purposes, I refer to and repeat my explanation for the release of the Expulsion Motion and Dossier to the media in my First Affidavit at [141]-[142] and, insofar as wanting to deal with such issues quicker than they had been dealt with in respect of Bernie Finn, at [20].

Conversations with colleagues

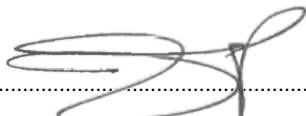
17. During this period, I had numerous conversations with MPs regarding the expulsion motion. While I can't remember each of those conversations in detail and do not presently understand their relevance to the issues in dispute in this proceeding, to the extent I can specifically recall matters raised in affidavits filed on behalf of Mrs Deeming in respect of those conversations I say the following.

John Pesutto


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Witness

18. Mr Hodgett refers to discussions he and I had in the period between 19 March and 27 March 2023 at paragraph [14] of his affidavit. I recall we had discussions, and that Mr Hodgett wanted to resolve the issue by a compromise. I generally agree with Mr Hodgett's summation of those discussions, save to explain that when I used words to the effect that 'it was too late', I was referring to Mrs Deeming's failure to take the action required by the Leadership Team on the Sunday, or to otherwise demonstrate any understanding of the concerns that formed the grounds of the expulsion motion, and rather to 'double down' both in the Party Room and publicly, for example, through her tweeted 'Press Release' which stated: *'Let me be clear - I have done nothing wrong. Those who organised the Let Women Speak event on the weekend have done nothing wrong'*.
19. Mr McCracken refers to a discussion in the same period between he, Dr Heath, and I in that period at paragraph [19] of his affidavit. I recall such a meeting, and Mr McCracken saying words to the effect described. Dr Heath refers to the same conversation at paragraph [16] of her affidavit. I do not recall Dr Heath saying the specific matters alleged, but I recall we generally had a discussion in which both Dr Heath and Mr McCracken tried to persuade me not to proceed with the expulsion motion.
20. Mr Wells refers at [24]-[25] of his affidavit to conversations we had during this period. I recall Mr Wells and I having conversations during this period about Mrs Deeming and the expulsion motion. To the specific details stated by Mr Wells I make the following observations:
- (a) I do not recall saying to Mr Wells that I 'had to follow through with [the expulsion motion] or it would be a sign of political weakness' and do not believe I would have said so. I do recall having a general concern relating to the broader implications for the Party under my leadership of not taking a principled stand and following through. Also, at the time and at all times since, I have perceived that Mr Wells has been angry with me for not making him a part of my shadow cabinet. At the time, as a new leader, I was concerned that Mr Wells might seek undermine my leadership, so as to advance his own interests. Accordingly, I would not have said anything like that, which might have given any indication to Mr Wells that I held any political concerns for myself; and
 - (b) As I have noted above at paragraphs [13] and [13], I do not believe I told Mr Wells that Mrs Deeming had organised a group of Nazis to attend the Rally.
21. Richard Riordan MP refers at [16] of his affidavit to a meeting he had with Brad Battin MP and I before the 21 March Party Room meeting. I cannot now recall the details of that conversation save for the following:
- (a) I recall that we did not agree regarding the expulsion motion; and
 - (b) It is not clear to me if Mr Riordan is suggesting I used the words 'Nazi collaboration could be substantiated', or if he is just summarising what he apparently misunderstood from my earlier publications, as explained at paragraphs [11], [13] and [14] of his affidavit. To the

John Pesutto



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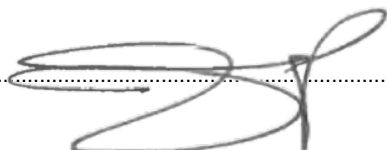
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extent he is suggesting I actually used those words or words to similar effect, I deny that allegation. I never used the phrase 'Nazi collaboration' or anything like it, and I certainly never used it in regard to Mrs Deeming. As I have said on numerous occasions, as detailed in Annexure C of the Defence, I do not and never have considered Mrs Deeming to be a Nazi, or a 'Nazi collaborator'. I would not have used that phrase in that context, as I had no such evidence. By the time that discussion took place, my Party colleagues had already been provided with that evidence in the form of the Expulsion Motion and Dossier, and I had made many statements to contrary effect as referred to in Annexure C. It would make no sense for me to have made allegations about 'Nazi collaboration' that went beyond what was in the Expulsion Motion and Dossier and what I had repeatedly said on other occasions.

27 March 2023 Meeting

22. At paragraph [25] of her affidavit, Dr Heath refers to an exchange we had before the meeting commenced. I do not specifically recall this conversation, but to the best of my recollection we likely had a similar conversation. While I may have used the word 'detailed', I did not intend to convey to Dr Heath that she should take notes in the style of a transcript - the minutes were always meant to be minutes.
23. I refer to Mrs Deeming's affidavit at [187] and [188]. I note that I did not have direct discussions with Mrs Deeming, but Mr Wells and Mr Hodgett acted as intermediaries. I have read the affidavits of Mr Wells and Mr Hodgett, and Mr Hodgett's account in so far as it involved me generally accords with my recollection. In contrast, the account of Mr Wells is false in various material respects. I make the following specific comments about each of Mr Wells's and Mr Hodgett's account of that meeting and those discussions:
- (a) At paragraph [23], Mr Hodgett states the compromise was 'that Moira would accept a 9 month suspension and there would be a joint statement from her and John, making it clear that Moira was not being accused of being a Nazi, or Nazi sympathiser'. While it appears Mr Hodgett has misunderstood what we meant by a 'joint statement' and conflated my willingness to confirm publicly what I thought was already clear – that no one was accusing Mrs Deeming of being a Nazi, or Nazi sympathiser – this generally accords with my recollection and with the minutes;
- (b) Mr Hodgett has inferred (at [22]) and Mr Wells has asserted (at [27]) that I thought, or knew, that the expulsion motion was not going to pass, and that belief or knowledge is what motivated me to seek a compromise of the expulsion motion. While I cannot speak for their states of mind, in so far as they purport to speak to my state of mind, they are wrong. I refer to paragraphs [158] to [160] and [164] of my First Affidavit which explain my motivation and why I sought a compromise of the expulsion motion. To be clear, while I did not press the expulsion motion at the time, I considered that the motion would still have passed had it been put to the Party Room for a vote and my brief discussions with the Leadership team

John Pesutto



DF

.....Witness

at the time about whether to press the expulsion motion had nothing to do with concerns about numbers;

(c) There was no discussion between myself and Mr Wells about a 'signed and stamped statement'.

24. The concept of 'exoneration' or 'full exoneration' as described by Mrs Deeming and Mr Wells was never discussed with me, or ever on the table. Such a concept does not make any sense whatsoever to me - if Mrs Deeming was to be fully exonerated of the various matters she and Mr Wells allege, including having brought the Liberal Party into disrepute, there would have been no basis for a suspension, let alone a 9 month suspension, which I considered a significant sanction.
25. Mrs Deeming states at paragraph [188] that she understood the compromise to consist of three elements. I agree with items (a) and (b). Item (c) does not appear in any version of the notes/'minutes' of that meeting. What I announced at that meeting, and what is summarised in each version of the notes/minutes (which only differ slightly on these points), is a broadly accurate reflection of the compromise that was agreed to be put to the Party Room with Mrs Deeming's intermediaries. I refer to and repeat my explanation of my understanding of these matters at [161] and [162] of my First Affidavit.
26. At paragraph [190], Mrs Deeming states she objected when I read out the compromise to the room. I did not hear Mrs Deeming say anything at that time. Further, Mrs Deeming seem to have conflated the 'joint statement' (my understanding of which has been explained elsewhere, including at [161] of my First Affidavit) and the third bullet point in all of the draft meeting notes/minutes.
27. At paragraph [192] Mrs Deeming states we had an interaction after the Party Room meeting. I have no recollection of speaking to Mrs Deeming at all that day.

The implementation of the compromise - press conference and Mrs Deeming's statement

28. As noted at paragraphs [161]-[164] of my First Affidavit and paragraph [25] above, during the meeting, the Party Room had approved a compromise agreement involving three elements. The first element was a lesser sanction – being a 9-month suspension, rather than expulsion. In her evidence, and in various public statements since, Mrs Deeming seems to have conflated the second element (being what has been called the 'joint statement') and the third element, which was to be some sort of statement clarifying that no one was accusing Mrs Deeming of being a Nazi or Nazi sympathiser. I did not think this part of the compromise agreement was a big issue at all, as I did not think Mrs Deeming was a Nazi or a Nazi sympathiser and had never accused Mrs Deeming of being one; something I thought I had repeatedly made clear in various public and private statements.
29. After the Party Room meeting, I left the second element of the compromise, being preparation of the 'joint statement' (which was the statement to be made by Mrs Deeming, prepared jointly with

John Pesutto



.....Witness

my office) to Mrs Deeming, Mr Southwick and my staff – Nick, Rod and Alex. As to the third part of the compromise, I believe that I complied with this at the press conference immediately after the Party Room meeting.

30. Until the preparation of this statement, I thought I had made an express statement or statements to the effect that the Leadership Team had never accused Mrs Deeming of being a Nazi or a Nazi sympathiser at the press conference, as I had intended to do. However, that press conference was, out of necessity (given the press were waiting), conducted shortly after the Party Room meeting without much time for preparation, and no ability to control it after I made my initial remarks. As part of this litigation, I have recently obtained an audio recording of that press conference and arranged for it to be transcribed. A copy of that transcript appears in Annexure **JP-38** to this. On re-reading that transcript carefully, I now accept that I did not use express words to that effect at any time during that press conference. Nevertheless, in my view, it is implicit from what I did say during the press conference that I had never accused Mrs Deeming of being a Nazi or a Nazi sympathiser, and that none of the journalists who attended and asked me questions thought I had accused Mrs Deeming of anything like that.

31. For example, during the press conference I repeatedly stated words to the effect that the reason the motion had been brought was because Mrs Deeming had failed to condemn the material in the dossier (being primarily the social media posts and public associations of Ms Keen and the Jones Tweet) when asked, and that because Mrs Deeming had now made concessions and condemned that conduct and those posts, there was no longer any need to expel her. I said this on numerous occasions, but some clear examples include:

Me: ...No matter what their background no matter what their sexual preference you know what their race or their ethnicity we will listen and engage with people right across the board. That's the Liberal Party I'm gonna lead and today marks a turning point where we are on the road to choosing that in the lead up to the 2026 election in a few years' time. This is part of a changing culture that I want to secure for our country. Now today we have an extended very lengthy and very emotional party room meeting for a very long time and many members spoke and they were very emotional during that meeting. That meeting took place off the back of some new information that was provided by Moira Deeming early this morning at around about 6:30 in Melbourne time. That new information contained important concessions and those concessions were in the form of a condemnation of the types of conduct that were referred to in the dossier on which I have always sought from the very start and which had in fact been what prompted the notice of motion in the first place.

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Media: *What did her concession involve and what specifically did she condemn?*

Me: *Okay so Moira condemned, there were references to the Nazi material that was issued in Kellie-Jay Keen's references in the dossier and also the Angie Jones tweet. So you've*

John Pesutto



DF

.....Witness

seen that in the dossier and for me that's what I wanted all along, I wanted it to be condemned and she's done that.

....

Media: Just so I'm clear. The condemnation there, are you saying there's a difference between her initial condemnation on the 20th of March where she did condemn the actions of the masked men in black who later identified as neo-Nazis. So at that point in time she condemned the neo-Nazis in saying there's now a further confirmation and that's what led to your compromising issue.

Me: Simon exactly. That was the reason for the motion. The reason I brought the motion forward is because I was concerned that just condemning the Nazis generally was not enough. What we needed and what I demanded as leader of the Liberal Party of Victoria was that we needed to see a condemnation specifically of the references in the dossier from both Kellie-Jay Keen and Angie Jones. Moira has now done that

....

Media: As you mentioned earlier Moira Deeming hasn't condemned either Kellie-Jay Keen or Angie Jones. Your dossier also says that one of the reasons why she brought disrepute on to the Parliament or the parliamentary party is because she was associating with those two people where Ms Keen was known to be publicly associated with far right wing extremist groups including neo-Nazi activists. You now face the prospect to welcome back into your party room someone who according to your dossier has links with people who are closely associated with far right wing extremist groups including neo-Nazi activists. How do you justify that to the Victorian public?

Me: Because Moira has condemned it which is what I wanted---

...

Me: But Richard in fairness remember I moved the motion of expulsion because I wanted to condemn it. I wanted this conduct condemned on Sunday. Now it wasn't done on Sunday. I condemned it, all of my colleagues condemned it. We won't hesitate in doing that and we will never ever accept it but what changed this morning was the final realisation that it was wrong not to condemn it. That's what's important

32. As I said at paragraph [164] of my First Affidavit, while those concessions were not the sole reason I chose not to proceed with expulsion as a sanction (which I repeatedly alluded to in in the press conference, with references to the meeting being 'very emotional' and the like), I considered that it would have been completely inappropriate for me to say in that press conference that a significant reason why we agreed not to push ahead with the sanction of expulsion was Mrs Deeming's disclosure in the Party Room meeting of abuse and rape. While Mrs Deeming and others may

John Pesutto



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Witness

criticise me for my thinking, to my knowledge, Mrs Deeming had not shared that information publicly prior to the meeting, and my motivation in not disclosing her statement that she had been raped as a child to the press conference was not to harm Mrs Deeming or her reputation; on the contrary, I genuinely did not feel it was my place to share Mrs Deeming's sensitive and private personal disclosures to anyone outside of the Party Room.

Minutes of the 27 March 2023 meeting

- 33. As Dr Heath describes at paragraph [30]-[31] of her affidavit, at 3:59pm on 27 March 2023, she sent me what she described as her 'unedited minutes' of the 27 March meeting. I received further versions of the minutes on 30 March 2023 and 1 May 2023 via my staffer, Gary Anderton, to whom Dr Heath sent the minutes. While I have used the term 'minutes' for convenience and clarity, they are not strictly minutes until they have been approved by the leader and the Party Room. Until that time, they are considered meeting notes.
- 34. Dr Heath was and is a supporter of Mrs Deeming. When I first received the draft minutes on 27 and 30 March 2023, I was concerned that they were not actually minutes – that is, they were more like a transcript of what was said, rather than a set of notes which record the key issues, votes, outcomes etc of the Party Room. I was worried about that level of detail of what had been said during the Party Room meeting being included, because at this time, I believed that Mrs Deeming or her supporters were leaking to the media and these detailed notes (which appeared self-serving to Mrs Deeming's camp) could be used against me or others who had spoken at the Party Room meeting. As discussed below, I was also concerned by apparent differences in the different versions of the minutes Dr Heath provided to me.
- 35. Not much happened relevant to this proceeding throughout the first half of April as Parliament was not sitting in April and many people, including Mrs Deeming, took leave (as Mrs Deeming describes at [216] to [221] of her affidavit). I accept that Mrs Deeming made requests for the minutes as detailed in those emails, which I referred to in my First Affidavit. I was not attempting to hide anything from Mrs Deeming by not promptly settling them or authorising Dr Heath to release them to her – from my perspective, there were three issues. First, as noted above, there were no minutes until they were approved by the Party Room (at that time, they were just Dr Heath's notes). Secondly, I was not sure whether Mrs Deeming was entitled to Party Room minutes in circumstances where she was suspended from the Party Room. Thirdly, Mrs Deeming had leaked her speech to the Party Room to Ms Credlin shortly after the meeting as was subsequently reported in, for example, the Sky News article '*Sky News Australia reveals Moira Deeming speech that saw her avoid expulsion from Victorian Liberal Party on Monday*'. This Sky News article is Annexure **JP-39** to this affidavit. In the circumstances, given I could not sensibly have had the minutes approved by the Party Room for several weeks, given everyone (including Mrs Deeming) was away, and given I had other things I wanted to deal with, this was simply not a priority for me at the time.



John Pesutto



.....Witness

36. On or around 18 April 2023, Mrs Deeming returned from leave and participated in an interview with Peta Credlin, where she made a number of statements concerning both the reasons for the motion and the outcome of the meeting on 27 March 2023, which are false, for reasons explained elsewhere in my evidence. I became aware of this interview at the time. A copy of that interview is at the following link: [Maira Deeming reveals the terms of her Liberal Party suspension and why she will continue fighting for women's rights | Sky News Australia](#). A PDF version of the Sky News article dated 18 April 2023 is Annexure **JP-40** to this affidavit
37. On 23 April 2023, it became apparent to me that the 'minutes' (or rather, Dr Heath's detailed meeting notes of the 27 March 2023) had been leaked to Peta Credlin, who reported on being read those 'minutes' in an article in the Daily Telegraph. I did not leak or read those 'minutes' to Ms Credlin, and I am confident my staff did not.
38. At the time, I understood the only others who had a copy of those 'minutes' were Dr Heath and Mrs Deeming. Dr Heath later informed me she had not sent the 'minutes' to Mrs Deeming. I do not know whether that is true or not. What I am confident of is that the original source of the leak, whether directly or indirectly, must have been Dr Heath, and that the leak to Ms Credlin was designed to support Mrs Deeming and her narrative and account of the meeting and the reasons for her suspension, which I did not agree with (as explained elsewhere in my evidence).
39. At paragraph [48] of her affidavit, Dr Heath refers to a conversation she had with me and a female staffer on the phone on around 24 April 2023, a day or two after the article by Ms Credlin in the Daily Telegraph referred to above. The female staffer Dr Heath refers to in her evidence was Chantalle Asmar, my then Deputy Chief of Staff.
40. I do not recall that conversation in detail but I make the following comments on that conversation:
- (a) During the call I did suggest to Dr Heath that she must have leaked the draft minutes. I recall that Dr Heath denied leaking the minutes;
 - (b) I also recall that Dr Heath pushed back on any suggestion that there should be changes to the minutes. I found this very strange as until they were approved by the Party Room they were simply meeting notes, and Dr Heath had no special insight into what was said at that meeting;
 - (c) I recall that Dr Heath used the words 'contempt' or 'fraud', or words to that effect;
 - (d) I do not recall seeking any specific change of the compromise in that conversation, but I do recall that I was generally very concerned about the way in which they had been prepared which appeared to me to be close to a transcript, and the fact that they had apparently been leaked in circumstances where they had only been provided to a very limited number of people;

John Pesutto



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(e) I did not become angry during the conversation, but I was suspicious of Dr Heath being the source of the leak, and I was frustrated with her approach towards the minutes. Ordinarily draft minutes are provided to the Leader's office for review. The Leader's office reserves the right to review for accuracy, and to make any changes. In any event, the minutes always need to be approved by the Party Room, so the suggestion that now seems to be being made with references to "fraud" and the like – that I was trying to sneak in changes which did not reflect what was actually said in the meeting, when there were 29 other people in the Party Room who were there who would have to approve the minutes – is ridiculous. Further, I knew then that the Party Room discussion about the minutes would be highly contentious.

41. In or around early May 2023 I caused my staff to prepare a word document that showed by track changes the differences between the versions. A copy of the documents tracking the differences between the various versions of the minutes is Annexure **JP-41** to this affidavit.

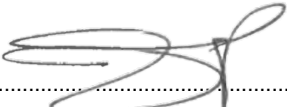
Mrs Deeming's conditions of suspension

42. In this same period, I became aware that Mrs Deeming was apparently seeking clarification of the conditions of her suspension, and a letter or written statement in relation to matters she stated had been alleged against her (**proposed letter**).

43. Aside from the meeting with Mr Wells on 26 April 2023 and reviewing the form of the clarification letter Mrs Deeming apparently proposed, both of which I describe further below, I substantially left these matters with David to seek to resolve.

44. At paragraphs [41]-[43] of his affidavit, Mr Wells describes a meeting on 26 April 2023 between me, him and David. I recall Mr Wells saying words to the effect he deposes to in that meeting. In particular, I recall him making an allegation that the Leadership would tamper with the minutes of the 27 March 2023 meeting to suit a desired outcome. I rejected that allegation in response at the time. As explained at paragraph [40(e)] above, the idea I or we would try to sneak in changes which did not reflect what was actually said in the Party Room meeting, when there were 29 other people in the Party Room who were there who would have to approve the minutes, is ridiculous.

45. On 27 April 2023, David forwarded me the proposed clarification letter Mrs Deeming had provided to Mr Wells. I considered the proposed letter to be ridiculous. It did not reflect my understanding of what I or the Party Room had voted for, and would have effectively been an acceptance that Mrs Deeming had done nothing worthy of censure and the materials in the Expulsion Motion and Dossier were unfounded, which I did not and do not agree with. I was struck by how it was entirely inconsistent with the fact Mrs Deeming had been suspended based on the materials in the Dossier (many of which she had condemned in her email on the morning of the Party Room meeting) and formed the view that Mrs Deeming (or whoever was by then advising her following her return from leave in April 2023) was then seeking to rewrite history.

John Pesutto


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2 May 2023 meeting – 12 May 2023 meeting

46. On 2 May 2023 there was a Party Room meeting. At that meeting, while I do not recall the precise words I used, I raised my concerns about the various draft minutes Dr Heath had provided, and I used the document prepared by my staff with tracked changes (a copy of which is Annexure JP-40) to demonstrate the differences between the versions.
47. At paragraph [57] of her affidavit, Dr Heath states I said words to the following effect:
- (a) "I'm in a strange situation. I'm in the awkward position where I have to reject the minutes because the Secretary has provided three sets of minutes which are all completely different"; and
 - (b) "Look, she has even deleted the motion".
48. I did say words to that effect and displayed the three different versions with red tracking to the Party Room. I recall general looks from many present of concern and dismay.
49. I recall that Dr Heath disputed the issue although I can't recall her specific words. She may have said, as she states 'No I haven't. Tell the truth', and certainly said words to that effect.
50. At that meeting, I moved a motion to decline the versions of the minutes provided by Dr Heath to date, and the following motion was carried:
- 1) The Party Room does not accept the minutes from 21 March 2023 and 27 March 2023 at this stage; and
 - 2) That the Leader and his office work with Mr Southwick, Mr Wells and Dr Heath to present a set of minutes for each of the meetings on 21 and 27 March 2023 for consideration of and, if acceptable, approval of the Party Room.
51. At the time that motion was passed, I intended to meet with David, Mr Wells, and Dr Heath to seek to settle the minutes in accordance with the second resolution. However, the events of the following days overtook and made things unmanageable, namely:
- (a) Mrs Deeming's continued threats to sue me including on 4 May 2023 and the resulting second expulsion motion to expel Mrs Deeming, which was proposed on 6 May 2023; and
 - (b) the continued leaking (or outright misrepresentation) of Party matters relating to Mrs Deeming, such as the article in *The Australian* "*Moira Deeming sets John Pesutto a legal deadline to withdraw "Nazi smear"*", and the article in *The Age* "*Untied loose ends and the ominous shift in tone: The statement that never saw the light of day*". These sorts of leaks and articles, and the clear strain which obviously then existed between Dr Heath and I (see, for example, her evidence at paragraph [63] of Dr Heath's affidavit) made it very

John Pesutto



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.....Witness

difficult to conduct sensible discussions of the kind that would have been required to fulfil the resolution in confidence, thus making the previously agreed resolution unworkable.

52. Accordingly, at some stage between 4 and 12 May I asked my staff to prepare a set of conventional minutes for the 27 March meeting for my review.
53. As noted at [172] of my first affidavit, on 4 May 2023, I gave a press conference which was widely reported, during which I said, and was reported to have said:

The outcome for the party room meeting on the 27 of March was very clear. It was based on a dossier which formed the basis of the motion. The party room overwhelmingly accepted the outcome of the meeting which was a nine month suspension, statement to be prepared jointly which was in fact done on the day and then confirmation publicly, which was done on many occasions... which nothing on the dossier ever accused Moira Deeming of being a Nazi or herself having Nazi sympathy. Those things have been done.

54. Mrs Deeming and several of her witnesses have criticised me for making that statement. However, as I pointed out at [171] of my First Affidavit, Mrs Deeming had demanded an “exoneration” by 2pm that day or she would commence legal proceedings, and as explained previously and above, a statement to that effect was the only thing remotely approaching an “exoneration” that was ever agreed to on 27 March, as is reflected in each version of the draft minutes and various affidavits. Contrary to [232] of Mrs Deeming’s affidavit, I did not “know full well that [my] own words, in public and private, had accused [her] of exactly those things” – in fact, I believed and believe quite the contrary.
55. On 12 May 2023, a version of the minutes was ultimately put to, approved and adopted, by the Party Room at the Party Room meeting. Those minutes are annexed to Mrs Deeming’s affidavit at pages 107 to 110 of Exhibit MD-1.
56. In relation to the amended motion recorded in those minutes, I recall that item 3 which states “The Leader confirms that there is no allegation made that Mrs Deeming is a Nazi or Nazi sympathiser” was amended from the third limb of the proposed compromise to reflect the fact that on 4 May I had made such a statement. In that regard, I note again that Mrs Deeming’s email of 4 May 2023 which threatened legal action had demanded I make such a statement that day and I did not want to leave any room for Mrs Deeming or anyone else to continue to seek to negotiate a new statement or misrepresent what I had originally alleged or had said in compliance with that part of the amended motion.
57. At the 12 May 2023 meeting, a motion was also moved that the position of Party Secretary be made vacant. While I cannot remember precisely who said what, I recall that discussion on that motion centred around suspicions that Dr Heath had leaked the ‘minutes’ to Ms Credlin either directly or indirectly. My impression and recollection is that was the reason the motion Dr Heath’s position as Party Secretary be made vacant succeeded. Speaking for myself, that was the reason I supported

John Pesutto



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the motion. Contrary to the suggestions in paragraph [250] of Mrs Deeming's affidavit and elsewhere, I did not support the motion against Dr Heath because Dr Heath had spoken out or supported Mrs Deeming, or as 'punishment' for her refusal to change the minutes.

Intention generally

58. Mrs Deeming has variously described my intentions as follows:

- (a) At paragraph [93], to publicly damage and humiliate her, and to 'taint' her 'as toxic to the rest of the MP team', and to 'undermine' her;
- (b) At paragraph [94], that I decided to 'smear' Mrs Deeming 'with Nazim to hide the true reason for the proposed expulsion' and there was 'maliciousness' in the Media Release;
- (c) At paragraph [111], that I had 'set out to damage and utterly destroy' Mrs Deeming;
- (d) At paragraph [125], that I hated Mrs Deeming and was 'intent' on 'ruining' her and her 'career at all costs';
- (e) At paragraph [131], that my 'entire purpose in the Press Conference was to make people think [Mrs Deeming] was a Nazi or Nazi sympathiser';
- (f) At paragraph [144], that I was engaged in any 'ongoing attempt' 'to subdue and silence' Mrs Deeming;
- (g) At paragraph [159], that I did not care about Mrs Deeming 'as a human';
- (h) At paragraph [160], that I 'presented the Publications in a manner' that was 'unnecessarily urgent, excessively distributed, and oversensationalised', as is also alleged at paragraph 38.2 of the SOC;
- (i) At paragraph [172], that I have acted 'maliciously' towards Mrs Deeming, and my actions were 'targeted to destroy [her] utterly';
- (j) At paragraph [174], that I was 'undermining [Mrs Deeming's] reputation' and speaking about her like she is 'a dangerous, despicable aberration';
- (k) At paragraph [205], that I 'double-crossed' Mrs Deeming and 'misrepresented' her position;
- (l) A paragraph [207], that my comments were 'brazenly untrue' and 'intensely sinister and threatening', that by saying I would be "looking very closely" at Mrs Deeming , I meant that I would follow [her], and monitor and scrutinise [her], along with unnamed others from the party, and would pick apart anything [she] did or said, until [she] was broken and destroyed';


John Pesutto



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59. I deny ever having any such intentions or purpose and refer to my other evidence which is relevant to each of those matters.
60. In particular:
- (a) I had previously defended Mrs Deeming (for example, see my first affidavit at [38]-[39]);
 - (b) I do not and never have believed Mrs Deeming to be a neo-Nazi, white supremacist, or anything of the kind and have stated so publicly on numerous occasions (see my first affidavit at paragraph [182]);
 - (c) I have never sought to destroy, damage, undermine, or otherwise affect Mrs Deeming's life or career, save to the extent that doing so was an unavoidable consequence of:
 - (i) attempting to lead a Party that was both consistent with my conception of Liberal values and a credible alternative government; and
 - (ii) pursuing Party disciplinary matters and the explanation of such matters to the electorate when I felt Mrs Deeming left the Leadership Team with no alternative course.
 - (d) Far from wanting to destroy Mrs Deeming, I wanted to avoid these kinds of harmful debates, to focus on being an effective opposition and credible alternative government, and to move on from any issues associated with Mrs Deeming as quickly and painlessly as we could. As I said in my First Affidavit, I explained this to Mrs Deeming both prior to and after the Rally (see for example, [36]-[38] and [89]-[91] of my First Affidavit), and this is consistent with what I have said privately. For example, on 1 May 2023 I texted David saying "I wish she could appreciate how infuriating it is to get interviews with questions about her when all we want to talk about is Andrews. [emoji]". A copy of the chain of messages which contains that text is Annexure **JP-42** to this affidavit.
 - (e) The suggestion which underpins Mrs Deeming's case, that if I had not published the matters complained of, no one else would have drawn the same links and Mrs Deeming's reputation would not have been harmed by either the neo-Nazi's attendance at the Rally she helped organised, the conduct (including social media posts) and/or the associations of her fellow organisers, and/or Mrs Deeming's unsatisfactory response to those matters is simply not credible. I was not the first, and I would not have been the last, to find those things (which were already the subject of negative publicity and commentary) offensive, disreputable and damaging. In my experience, that negative publicity and commentary was going to grow in the days that would follow, not go away, as the Government and the media saw what we saw.
 - (f) The suggestion that I misrepresented what occurred in the Party Room on 27 March 2023 for my own political purposes, when in reality I had recognised that I had been wrong or that

John Pesutto



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I thought I would have lost the vote is simply wrong. As noted previously and above, the primary reason I did not press the motion on 27 March 2023, was because following Mrs Deeming's emotional disclosures to the Party Room, we felt a sense of pastoral care and empathy towards Mrs Deeming and also felt that she had provided some concessions in relation to the social media posts and errors of judgment, which meant that we could live with a compromise on a sanction involving a significant suspension and a statement from her.

Allegations made by Mrs Deeming in relation to aggravated damages

Alleged knowledge of falsity


- 61. At paragraph [38.1], Mrs Deeming alleges I had knowledge of the falsity of the imputations conveyed by the matters conveyed of. There appears to be a fundamental disagreement between Mrs Deeming and I as to what I said and intended to say.
- 62. To be clear, I do not agree that most of the imputations Mrs Deeming alleges were conveyed were intended or conveyed, and I deny that I knew any such imputations which I intended to convey were false.

Alleged failure to warn not to attend or associate

- 63. Mrs Deeming alleges at [44] of her affidavit, and paragraph 38.5 of her SOC that, in summary, I failed to warn or direct her not to attend the Rally or associate with Ms Keen or other organisers of the Rally, or warned Mrs Deeming that if she did so I would consider she had brought discredit upon the Party and would seek to expel her.
- 64. I have dealt with my level of knowledge of the Rally and its organisers prior to 18 March 2023, and the real reasons I sought to expel Mrs Deeming (including how she could have avoided any attempt to expel her simply by issuing reasonable public statements) both above and in my 27 May 2024 affidavit.
- 65. Further, it is not possible or even appropriate for me to monitor and regulate the activities of all MPs within the Party. As at the date of this affidavit there are 30 MPs in the Party Room (down from 31 when Mrs Deeming was a member of the Party Room). Elected MPs, including Mrs Deeming, are adults exercising important public and political functions. They are expected to exercise judgment as to their own conduct and activities. Ultimately, as Leader, I have to answer publicly for the conduct and judgment of every MPs in the Party. However, the apparent suggestion that I, rather than Mrs Deeming, who chose to promote and organise the Rally with Ms Keen, should have done some research on Ms Keen prior to the Rally is, in my opinion, bizarre and entirely unrealistic.

Alleged failure to invite support person, representative, or provide a full agenda

John Pesutto 

.....  Witness

66. As I noted above, MPs are public figures and adults exercising important roles in the community with enormous responsibility. I do not consider it necessary to invite MPs to bring support persons or representatives to meetings, even serious or difficult meetings. Nevertheless, if Mrs Deeming had sought to bring a support person or representative, as she did on 27 March 2023, she would have been welcome to do so.
67. The meeting was organised in urgent circumstances. Its subject matter - the Rally and Mrs Deeming's conduct in relation to the Rally and its organisers - was obvious and expressed to Mrs Deeming, although I accept we did not have all of the information when we requested Mrs Deeming attend, as many of the social media materials were only found that day. We hoped that Mrs Deeming would do what we asked of her at the meeting, which we thought was reasonable, and that would be the end of the matter. During the meeting, Mrs Deeming was given as long as she wanted to explain her position prior to Leadership Team making any decision. Even then, she was always going to be given another opportunity to respond to the allegations in the motion both prior to and at any Party Room meeting a week or so later. In the circumstances I do not think it was necessary nor reasonable for a 'full agenda' to have been provided to her for the Sunday meeting.
68. Politics is an important and often difficult business. I regularly have difficult meetings with colleagues where nobody brings a support person and no agenda is provided. I do not consider there was anything unjustifiable or improper about not adopting a different practice on this occasion.

Ambushing, attacking and bullying Mrs Deeming

69. At paragraph 38.5(c) of her SOC Mrs Deeming alleges the Leadership Team ambushed, attacked and bullied Mrs Deeming in various respects. I deny that Mrs Deeming was ambushed, attacked and bullied at the meeting on 19 March 2023 and refer to the various matters I have said previously and above regarding this meeting.

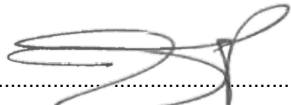
Calls to MPs on 19 March 2023

70. At paragraph 38.5(d) of her SOC Mrs Deeming makes various allegations in relation to calls she alleges were made to MPs. In relation to such calls, I refer to and repeat my evidence on these matters above at [12]-[14].

Alleged Media Campaign

71. At paragraph 38.6 of the SOC Mrs Deeming alleges I engaged in a Media Campaign. I refer to and repeat the evidence of my engagement with the media, and the purpose and intention of that engagement in my First Affidavit. I make the following specific comments on the alleged Media Campaign:

- (a) to paragraph 38.6(a) I deny that I engaged in a calculated and purposeful campaign to as wide an audience as possible for the purpose of damaging Mrs Deeming's reputation;

John Pesutto 


.....  Witness

- (b) to paragraph 38.6(b) and (c) which, in summary, make allegations that I excluded from the matters complained of Mrs Deeming's denials and/or statements or other exculpatory matter, I note the matters complained of were matters I and/or the Leadership Team drafted for the information of our colleagues (in the case of the Expulsion Motion and Dossier) or the public (in the case of the other matters). We were (in relation to the Expulsion Motion and Dossier) pressing our case for Mrs Deeming's expulsion, and (in relation to the other matters complained of) I was answering questions put to me and/or explaining to the public the reasons the Leadership Team had decided to move a motion seeking to expel Mrs Deeming from the Party Room. I was not trying to exclude any of Mrs Deeming's responses or denials from the matters (to the extent there were any of substance). However, Mrs Deeming was able to, and did, provide responses and issue public statements where she prosecuted her own position and view that she and the other organisers of the Rally had done nothing wrong. I note that, in contrast to Mrs Deeming, I put forward my reasons well in advance of the Party Room meeting and was willing to be interviewed and challenged on the decision we had taken by difficult interviewers. Each of the interviews I did was challenging and hard. I did not seek and was not given an easy time - they were not vanity projects, from which I thought I would emerge unscathed. Nevertheless, I felt it was appropriate, for the reasons previously explained in my First Affidavit, to expose our decision to public scrutiny. That may have resulted in less ability to control what was said, but I considered it an important part of the democratic process and something that was in the public interest.

The Subsequent Conduct

72. At paragraph [38.7] Mrs Deeming alleges I engaged in various matters defined as the Subsequent Conduct. Most of those matters are stated at a high-level of generality, some of which I do not fully understand. Some of those I have already touched on elsewhere, particularly where evidence has been led in respect of those matters. In further response to those I have not already responded to:
- (a) to paragraph [38.7(a)] I deny that I engaged in a calculated attack campaign against Mrs Deeming;
- (b) to paragraph [38.7(c)] I deny that I encouraged members of the public, members of the Liberal Party and members of the Parliamentary Liberal Party to hate, hold contempt for and ridicule Deeming and to express that hatred, contempt and ridicule. To be clear, I accept that some members of the public, Liberal Party and even the Parliamentary Liberal Party held and hold controversial and sometimes negative views of Mrs Deeming who came to the Parliament with a high level of notoriety – some of which have hardened following the following the Rally and the events the subject of these proceedings. However, in my experience, that is not uncommon in politics, particularly for politicians such as Mrs Deeming who hold strong views on contentious social issues, and that was always likely to occur following the neo-Nazi's attendance at the Rally, regardless of whether I published the

John Pesutto



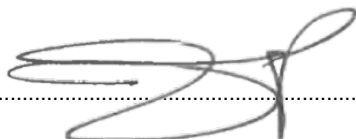
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specific matters complained of. Further, it is clear that, amongst those parts of the Liberal Party, the Parliamentary Liberal Party and the public who were already likely to support Mrs Deeming, her reputation has not been harmed; on the contrary, in various circles, her reputation has improved and has become almost a martyr. In any event, I did not intend to, and do not consider that I did, encourage any persons to hold contempt for and ridicule Mrs Deeming;

- (c) to paragraph [38.7(e)] I deny those matters are 'blatantly false' – on the contrary, I say that they are true and that Mrs Deeming was to blame for not making those concessions earlier when asked, and refer to her email to the Party Room on 27 March 2023 which contained the concessions, and what I actually said at the press conference and my reasons for limiting those statements, as explained at paragraphs [29]–[31] above;
- (d) to paragraph [38.7(f)], I do not understand the relevance of whether the motion should have proceeded to this case, but maintain that the motion was justified and note that various members of the Party also urged me to press on with the motion; in fact, while there were strong feelings on both sides, the Party Room clearly voted against the motion to delay that was supported by 'certain Members' that Mrs Deeming apparently relies upon;
- (e) to paragraph [38.7(g)], I deny the allegation generally and refer to my previous evidence. In particular, I completely reject any suggestion the agreed compromise would 'officially and completely exonerate [Mrs Deeming] from all the accusations [I] made about her', and refer to my evidence concerning this at paragraphs [23]-[26] above;
- (f) to paragraph [38.7(h and (j))] I refer to and repeat my explanation above and previously as to my statements in the media conference on 27 March 2023. For the avoidance of doubt, to the extent that it is alleged that the statements I made to the press conference on 27 March 2023 were false because I failed to mention to the effect Mrs Deeming's disclosure to the Party Room that she had been raped had on my/our decision to reduce the sanction of expulsion at that time, I do not consider that conduct was improper, unjustifiable or lacking in bona fides – on the contrary, I had no alternative but to front the media and explain the compromise reached, and I feel it would have been unjustifiable and improper for me to explain that part of the reason was Mrs Deeming's personal disclosure. Any suggestion that I should have fronted the media in a press conference with Mrs Deeming when she had just been suspended for 9-months based on a hard fought and controversial motion is completely unrealistic;
- (g) to paragraph [38.7(i)] as explained previously and above, I deny there was an agreement to make an 'agreed joint public statement' or to 'exonerate' Mrs Deeming as alleged, but accept that I could and should have been clearer and more express in saying those words at the press conference on 27 March 2023 (as much as I had never said or implied that Mr Deeming was a Nazi or Nazi sympathiser), when I intended to carry out the third part of the

John Pesutto



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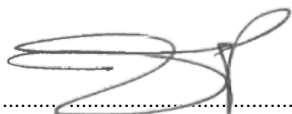
compromise agreement. For the avoidance of doubt, I used clear words to the agreed effect in my statement at the press conference on 4 May 2023 and those words were widely reported at the time and acknowledged as sufficient by Mrs Deeming shortly afterwards on 6 May 2023 (see Annexure JP-32), prior to her sending her concerns notice or instituting these defamation proceedings;

- (h) to paragraph [38.7(k)] I refer to my evidence at paragraphs [35]-[38] above regarding the minutes of the 27 March meeting, and in particular, my reasons for not immediately providing Mrs Deeming with a copy of the meeting notes (i.e. draft minutes) before they were approved by the Party Room;
- (i) to paragraph [38.7(l)] I refer to my evidence above, particularly at paragraph [51], regarding why the resolution became unworkable and why I submitted a version of the minutes prepared by my office to the Party Room for its approval on 12 May 2023;
- (j) to paragraph [38.7(m)] I deny the notice of motion was unconstitutional, or that there was anything improper in permitting the motion to be put to the vote on 12 May 2023;
- (k) to paragraphs [38.7(n) and (o)] , I deny these allegations, which make no sense to me. The expulsion motion was brought on 6 May 2023, some five days prior to the Concerns Notice being sent. I understand that the legal threats that prompted the motion to be brought were Mrs Deeming's earlier legal threats on 4 May 2023, to sue both me and the Party, one of which was publicly reported following leaks from Mrs Deeming and the other which was sent to the members of the Party Room directly (see Annexures JP-29, JP-30 and JP-31). It is clear on the face of those emails that those threats were to sue both me and the Party. I have not seen any direct evidence to support any allegation I said anything different in any of the Affidavits filed on behalf of the Applicant and deny that I did. To be clear, I accept that on 11 or 12 May 2023, I likely told some of my colleagues that Mrs Deeming had sent me a Concerns Notice. However, to me that is Mrs Deeming following through on one of the threats she made on 4 May 2023, which had prompted the motion in the first place; and
- (l) to paragraph [38.7(p)] I do not know what 'claims' Mrs Deeming is referring to but deny any claims I made in November 2023 to the precise effect alleged in that paragraph are 'patently false'. Insofar as Mrs Deeming is referring to my statement issued on 20 November 2023, I note that my statement was issued in response to a statement Mrs Deeming issued earlier that day which itself contained some factual inaccuracies.

(i) Mrs Deeming's statement relevantly said:

The rally was attended by ordinary people from across the political spectrum. Terrifyingly, it was also gate-crashed by groups of masked Neo-Nazi sympathisers and radical

John Pesutto



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.....Witness

Both during and after our rally, I and the organisers publicly condemned the Neo-Nazis, Nazism, antisemitism and bigotry of any kind. I did not know those neo-Nazis and did not arrange for them to gatecrash our event.

The next day, I was called into a meeting and informed by the Liberal Party leadership that if I refused to denounce the 'Let Women Speak' rally and it's organisers as being extremists and Nazi's/Nazi associates, they'd move a motion to expel me from the parliamentary team. Or, I was told, I could 'just resign and make it easier on everyone'. I declined.

I was then falsely and publicly accused by the Victorian Liberal Leader, Mr John Pesutto, of being a knowing associate of Neo-Nazi sympathisers and extremists, and therefore deserving of expulsion from the Parliamentary Liberal Party. Mr Pesutto has denied making these accusations against me. He claims instead that he sought my expulsion because I'm guilty by association with persons, who were themselves guilty by association with neo-Nazism. The guilt by association fallacy is well known. But Mr Pesutto's version of guilt by association twice or thrice removed for the most extreme and serious punishment of expulsion, appears to be an excuse rather than a reason. Even Mr Pesutto's very own 'evidence dossier', which he distributed to my colleagues, the public and the media, has since been shown to be false.

(ii) My statement relevantly said:

I note Moira Deeming's statement issued earlier today. It contains a number of factual inaccuracies which need to be addressed.

1. Mrs Deeming's suspension and subsequent expulsion were never about her views on women's issues.

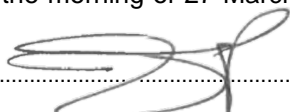
2. I have never called Mrs Deeming a neo-Nazi or sympathiser.

3. The issues in this matter have never concerned freedom of speech.

4. The issue has always been whether Mrs Deeming called out or distanced herself from neo-Nazi protesters and references when asked to do so by senior Liberals.

I note that if paragraph 38.7(p) of the SOC is referring to item 4 in my statement, it misrepresents the words I used. Further, it is true that Mrs Deeming had refused to call out the neo-Nazi references used by her fellow organisers on Sunday 19 March 2023, when asked to do so by the Leadership Team. She only condemned those neo-Nazi references on the morning of 27 March 2023 in a private email to the Liberal Party Room, then after

John Pesutto



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.....Witness

the Party Room meeting, walked back her condemnation in her public tweets and statements. I also note that Mr Southwick, a senior Liberal, called Mrs Deeming on Saturday 18 March 2023 shortly after the Rally, and asked her to immediately call out and distance herself from neo-Nazi protestors. Instead of doing so, Mrs Deeming posted a tweet condemning Victoria Police and featured in the Video, which I have discussed elsewhere in my evidence. I accept that Mrs Deeming did eventually condemn the neo-Nazi protestors in a statement on Monday 20 March 2023, after we had moved the expulsion motion. However, that statement was two days after she had been asked to do so and commenced by saying the other organisers who used the neo-Nazi references had done nothing wrong.

73. In her Reply, Mrs Deeming has alleged the four items listed in my media statement above in the preceding paragraph warrant aggravation, because they are false. I deny any of those statements are false.
74. In her Reply at paragraph 8.4, Mrs Deeming has also alleged that my statement during an interview with Tom Elliott of 3AW Melbourne on 2 February 2024 that: 'There was an outcome last year that, had it been observed, would have seen [Deeming] returned to the party room', was disingenuous and false. I deny that statement was disingenuous or false at all, or as alleged by Mrs Deeming in that paragraph. I remain of the view that had Mrs Deeming honoured the outcome of the Party Room meeting, she would have been returned to the Party Room by now.

Affirmed by the deponent
 at Melbourne
 in Victoria
 on 22 July 2024
 Before me: Deanna Ficatas

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Signature of deponent

Deanna C. Ficatas

Signature of witness

of 477 Collins Street, Melbourne, Victoria

An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (Victoria)

This affidavit was affirmed and witnessed remotely using an electronic copy of the affidavit in accordance with the Oaths and Affirmations Act 2018 (Vic)



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