

# MinterEllison.

9 September 2024

By email: [Patrick.George@gilesgeorge.com.au](mailto:Patrick.George@gilesgeorge.com.au)

Mr Patrick George  
Giles George  
Level 7, 135 King St  
Sydney NSW 2000

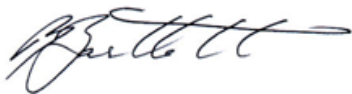
Dear Mr George

**VID1023/2023 Moira Deeming v John Pesutto (the Proceeding)**

1. We refer to order 3 made on 2 February 2024 and order 3 made on 9 August 2024 (**Discovery Orders**).
2. Pursuant to the Discovery Orders, please find **enclosed** Mr Pesutto's List of Documents affirmed on 9 September 2024 (**Fourth List of Documents**).
3. The Fourth List of Documents contains two audio recordings of the meeting on 19 March 2023 (the **Recordings**). The Recordings were made by David Southwick.
4. We learned of the existence of the Recordings at approximately 3:00pm today. We immediately took steps to obtain a copy of the Recordings from Mr Southwick. At about 6:30pm tonight, we took possession of a copy of the Recordings.
5. We confirm that we intend to rely on the Recordings at trial.
6. We are instructed that the Recordings were not, and have never been, in the possession, custody or control of Mr Pesutto until we took possession of a copy at about 6:30pm tonight.
7. The copy obtained by us from Mr Southwick is legally privileged. However, in the circumstances of the imminent commencement of the trial, and our intention to rely on it, we have instructions to waive privilege over the copy, and to disclose the copy pursuant to Mr Pesutto's obligations of continuous discovery. We have adopted this course in order to avoid the delay that would be involved in subpoenaing the Recordings from Mr Southwick.

Yours faithfully

**MinterEllison**



Contact: Dean Levitan  
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Your ref /

Our ref / 23RRG0495  
Date / 10 September 2024  
Sent by / Email

# Giles / George

**By Email:** [peter.bartlett@minterellison.com](mailto:peter.bartlett@minterellison.com)

Peter Bartlett  
Minter Ellison  
Level 20  
Collins Arch  
447 Collins Street  
Melbourne VIC 3001

Dear Mr Bartlett

**MOIRA DEEMING v JOHN PESUTTO  
FEDERAL COURT OF AUSTRALIA PROCEEDING: VID 1023/2023**

1 We refer to your email of 9.17pm last night, attaching a letter dated 9 September 2024 (**your letter**) and Mr Pesutto's Fourth List of Documents affirmed on 9 September 2024 (**Mr Pesutto's Fourth List of Documents**). The two documents listed in Mr Pesutto's Fourth List of Documents are said to be audio recordings made by Mr Southwick (**Recordings**) of the meeting on 19 March 2023 between Mrs Deeming, Mr Pesutto, Mr Southwick, Mr Bach, Ms Crozier and Mr Pintos-Lopez (**19 March Meeting**).

2 You state in your letter:

(a) At paragraph 4:

*We learned of the existence of the Recordings at approximately 3:00pm today. We immediately took steps to obtain a copy of the Recordings from Mr Southwick. At about 6:30pm tonight, we took possession of a copy of the Recordings.*

(b) At paragraph 6:

*We are instructed that the Recordings were not, and have never been, in the possession, custody or control of Mr Pesutto until we took possession of a copy at about 6:30pm tonight.*

3 Please confirm by 4pm today

(a) when and how Mr Pesutto first became aware of the existence of the Recordings; and

(b) whether Mr Pesutto has given discovery of all documents (of which, after a reasonable search, he is aware) referring to or relating to the 19 March Meeting or the Recordings.

Yours faithfully

**GILES GEORGE**



**Patrick George**  
Principal



11 September 2024

By email: [Patrick.George@gilesgeorge.com.au](mailto:Patrick.George@gilesgeorge.com.au)

Mr Jeremy Marel  
Giles George  
Level 7, 135 King St  
Sydney NSW 2000

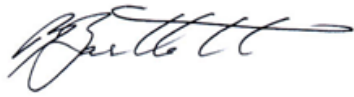
Dear Mr Marel

**VID1023/2023 Moira Deeming v John Pesutto (the Proceeding)**

1. We refer to your letter of 10 September 2024 in relation to Mr Pesutto's Fourth List of Documents and the Recordings.
2. *First*, in response to paragraph 3 of your letter:
  - (a) We are instructed that Mr Pesutto first became aware of the existence of a recording of the 19 March Meeting in about late 2023 or early 2024 when Mr Southwick mentioned the existence of a recording to him. Mr Pesutto had never listened to any recordings of the 19 March Meeting, or had the Recordings in his possession, custody or control until after we obtained a copy of them on Monday evening.
  - (b) We confirm that Mr Pesutto has given discovery of all documents (of which, after reasonable searches, he is aware) referring or relating to the 19 March Meeting or the Recordings.
3. *Second*, on 8 August 2024, Mrs Deeming gave supplementary discovery, which included an audio recording of a meeting between Mrs Deeming, Mrs Crozier and Mr Pesutto on 23 February 2023.
4. Can you please confirm whether, in addition to recording the 23 February 2023 meeting, Mrs Deeming also made a recording of the 19 March Meeting. Please also confirm whether Mrs Deeming has given discovery of all documents referring or relating to the 19 March Meeting.
5. *Finally*, at about 13:18–13:38 of the first of the two recordings, Mrs Deeming says "*the mainstream media haven't mentioned my name because I went absolutely berserk at them after my maiden speech and I caught them all out in a series of emails admitting to me that they had made truth claims that were allegations, and even though they refused to sort of like take them down, they haven't put a single thing about me since then, and they know that I am seeing defamation lawyers...*"
6. We request that Mrs Deeming give discovery of all communications between her and any media outlets containing complaints in relation to coverage of her maiden speech, the Rally or any other matters relevant to this Proceeding. For the avoidance of doubt, we do not seek or press for production of any communications sent or received by lawyers engaged on behalf of Mrs Deeming.

Yours faithfully

**MinterEllison**



Contact: Dean Levitan  
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OUR REF: DAL PLB 1447570

Your ref /

Our ref / 23RRG0495  
Date / 13 September 2024  
Sent by / Email

# Giles / George

**By Email:** [peter.bartlett@minterellison.com](mailto:peter.bartlett@minterellison.com)

Peter Bartlett  
Minter Ellison  
Level 20  
Collins Arch  
447 Collins Street  
Melbourne VIC 3001

Dear Mr Bartlett

**MOIRA DEEMING v JOHN PESUTTO  
FEDERAL COURT OF AUSTRALIA PROCEEDING: VID 1023/2023**

- 1 We refer to your letter of 10 September 2024 (**your letter**).
- 2 In relation to paragraphs 3 and 4 of your letter, we are instructed that Mrs Deeming did not make a recording of the 19 March Meeting and that she has given discovery of all documents (of which, after a reasonable search, she is aware) which she considers fall within the scope of r 20.14 of the FCR, including documents relating to the 19 March Meeting.
- 3 In relation to paragraphs 5 and 6 of your letter, Mrs Deeming has given discovery of all her communications with journalists (of which, after a reasonable search, she is aware) which she considers fall within the scope of r 20.14 of the FCR. Without accepting that the following documents fall within the scope of r 20.14 of the FCR, to avoid any further correspondence or disputation we **enclose** a copy of all communications (of which, after a reasonable search, Mrs Deeming is aware) which may be the emails referred to in the quote extracted at paragraph 5 of your letter.
- 4 We also **enclose** an additional document – an email from Renee Heath to Mrs Deeming – which falls within the scope of r 20.14 of the FCR. Please let us know if you require this document to be discovered by way of a formal List of Documents.
- 5 The documents enclosed with this letter, although produced informally, are produced subject to the Hearn v Street undertaking, and should be returned to us immediately if this is disputed.

Yours faithfully

**GILES GEORGE**



**Patrick George**  
Principal

