



(Your ref)

(Our ref) PG:23RRG0495
(Date) 14 July 2023
(Sent by) By email

Company (Giles)

By Email:

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


Dear Mr Bartlett,

CONCERNS NOTICE – ON BEHALF OF MRS MOIRA DEEMING, TO MR JOHN PESUTTO

1. We refer to previous correspondence setting out Mrs Deeming's complaints of defamatory matters published by Mr Pesutto about her.
2. This is the third 'Concerns Notice' issued on Mrs Deeming's behalf against Mr Pesutto for the purposes of Part 3 of the *Defamation Act* 2005 (VIC) (**Act**) and its counterparts in the other States and Territories.
3. We assume from your previous responses on Mr Pesutto's behalf that the provision of this Concerns Notice by email to your firm constitutes "giving" it to Mr Pesutto for the purposes of s 12B(1)(a) of the Act. If this assumption is incorrect, please advise.
4. Despite the provisions of the Act and the *Civil Dispute Resolution Act 2011 (Cth)*, Mr Pesutto has not made an offer of amends and has not offered to take any steps to resolve the complaints. It appears unlikely, therefore, that he will do otherwise in relation to this third Concerns Notice.
5. Nevertheless, our client is obliged under the Act to set out her concerns formally about the defamatory publications made by Mr Pesutto. He has repeatedly published statements about Mrs Deeming, from 19 March 2023 onwards, which have caused irreparable damage to her reputation, given the public reaction to and the republication and dissemination of those statements in mainstream media, social media and elsewhere.
6. Some of Mr Pesutto's statements have already been the subject of the first and second Concerns Notices. Mr Pesutto's campaign was calculated to damage Mrs Deeming's reputation as widely and as quickly as possible in order to achieve his objective of expelling her from the Parliamentary Liberal Party.
7. Mrs Deeming raises concerns about the following further publication.



Mr Pesutto's Press Conference on 20 March 2023

8. On 20 March 2023, Mr Pesutto gave a lengthy press conference (**20 March Press Conference**) at which he made defamatory statements of and concerning Mrs Deeming. Mr Pesutto's statements at the 20 March Press Conference constitute the 'matter in question' (for the purposes of s 12A of the Act) the subject of this Concerns Notice.
9. You can access the audio recording of the 20 March Press Conference at the following link:
 [Audio recording of press conference on 20 March 2023.m4a](#)
10. Please let us know if you are unable to access that link, and we will send it to you separately.
11. Mr Pesutto's statements were published to those journalists and others present at the 20 March Press Conference, with the intention, authorisation or foreseeable consequence that they would be and were then in fact widely republished by mainstream media outlets, social media platforms and others throughout Australia and overseas.

Defamatory imputations

12. Mr Pesutto's statements at the 20 March Press Conference carried the following imputations of and concerning Mrs Deeming (or imputations that do not differ in substance):
 - a. *Moir Deeming helped Neo-Nazis by working with them to promote their hateful agenda of vilification and hate.*
 - b. *Moir Deeming had so conducted herself in assisting Neo-Nazis to promote their hateful agenda of vilification and hate on the steps of Parliament that she should be expelled from the Parliamentary Liberal Party.*
 - c. *Moir Deeming deliberately gave Neo-Nazis a platform on the steps of Parliament.*
 - d. *Moir Deeming actively participated in a rally and knowingly worked with the key speaker, Kelly-Jay Keen, to promote her Neo-Nazi sympathies of hate and vilification, and promote her white supremacist and ethno-fascist views of hate and vilification.*
 - e. *Moir Deeming engaged in hateful conduct while a member of the Parliamentary Liberal Party by actively participating in and working with the organisers of a rally who she knew were Neo-Nazi sympathisers.*
 - f. *Moir Deeming knowingly associated with people who share a platform with Neo-Nazis who peddle hate and division and attack people for who they are.*
 - g. *Moir Deeming had so conducted herself in staying at a rally attended by Neo-Nazis and then celebrating with the key speakers of the rally who had Neo-Nazi sympathies after ugly scenes had occurred on the steps of Parliament so as to warrant her immediate expulsion from the Parliamentary Liberal Party.*
 - h. *Moir Deeming had so conducted herself before, during and after a rally at Parliament in associating herself with the key speakers who have shared platforms and endorsed viewpoints of Neo-Nazis so as to warrant her immediate expulsion from the Parliamentary Liberal Party.*
 - i. *Moir Deeming supports Neo-Nazi's hateful views towards others by her association with Neo-Nazi sympathiser, Kelly-Jay Keen, the key speaker at the Let Women Speak Rally.*
 - j. *Moir Deeming stands with Neo-Nazis and white supremacists.*
13. Each of those imputations is clearly carried by the 20 March Press Conference, and each is obviously and seriously defamatory of Mrs Deeming. Each of the imputations is baseless and false.

Harm Suffered

14. Mr Pesutto's statements of and concerning Mrs Deeming, as published and republished from 19 March 2023 onwards, held Mrs Deeming up to public hatred, contempt and ridicule and caused her extreme distress, embarrassment, humiliation and upset. Mrs Deeming will claim aggravated damages for the harm suffered by reason of Mr Pesutto's conduct which was unjustified, improper and lacking in *bona fides*.

Serious Harm

15. Mrs Deeming considers that Mr Pesutto's statements of and concerning her, specified above and/or in the first and second Concerns Notices, and other statements he made from 19 March 2023 onwards which conveyed the same imputations (or imputations not differing in substance), have individually and/or collectively by their repetition caused, and/or are likely to cause, serious harm to Mrs Deeming's reputation within the meaning of s 10A of the Act – including because of the following facts and matters:

- a. The seriously defamatory nature of the matters published and the imputations conveyed to the ordinary reasonable recipients of each of the publications complained of. Applying general community standards, the imputations as conveyed were likely to lead the ordinary reasonable recipient to think less of Mrs Deeming's reputation, and to a serious degree.
- b. The degree of harm to Mrs Deeming's reputation was self-evidently caused by the extent of publication and republication of such serious imputations to the world at large, to persons she knows, to persons she does not know, and to those who knew her or knew of her, and those who did not know of her beforehand. The publications were not restricted or sought to be restricted but were intended to cause ordinary reasonable recipients and the actual audience to conclude that Mrs Deeming's position with the Parliamentary Liberal Party was 'untenable' and she should be expelled or her that her suspension was justified.
- c. This included the extent of publication and republication of Mr Pesutto's statements (i) by mainstream media in newspapers and online; (ii) spread online, including on various social media platforms; (iii) spread by the grapevine effect; and (iv) spread by word of mouth.
- d. The actual impact of the publications complained of on those who listened to, watched or read about them will be the subject of evidence. However, for present purposes, we note the following matters:
 - i. At the meeting of Members of the Parliamentary Liberal Party on 27 March 2023, Nick McGowan MP said: *"If the motion is successful today you are actually labelling someone a Nazi. Moira is going to have to live with that. It's like calling someone a murderer, a rapist or a paedophile. Substance is key because there is not a penalty that is worse than this"*.
 - ii. Mrs Deeming said at the meeting:

Your decision today- whether you like it or not- will be linked in the minds of the public, to the specific accusations and imputations in that dossier.

I want to remind you all that being accused of Nazism- in any degree- by the Liberal Party Parliamentary Team of Victoria- is going to have heinous consequences for my life, the lives of my husband and our four children. It will have negative consequences for anybody associated with me, like my brother, my parents, and my friends.

My husband and I have already begun to receive hate mail from people who've read those accusations, and now believe that we are white supremacists.

There have already been threats of violence against me, because of these accusations.

A stranger has already attempted to trespass into our backyard where our children play.

The Police have had to do start doing regular patrols outside our home to help keep us safe.

We've already had threats to withdraw work opportunities because of these accusations.

Our children have already been excluded from their activities and groups.

iii. She also said:

These allegations against me of Nazism and hatred towards the trans community are 100% false. But people will believe them if you support this motion to expel me.

So even if you don't like me, or you think my focus isn't mainstream enough, or you worry that I'm not a team player- please by all means deal with me, but whatever you do, please don't deal with me via this expulsion motion because it smears me and my family as Nazi sympathisers when it couldn't be further from the truth.

- iv. These quotes were contained in the draft minutes of the meeting but were removed from the minutes (purportedly approved) after Mrs Deeming's improper expulsion.
- v. Prior to the meeting, Mrs Deeming was told by a journalist that Mr Pesutto was claiming she had links to the Neo-Nazis at the rally and "*no one was talking about [her] at the rally until John did*".
- e. Since and as a result of the publications, Mrs Deeming has been subjected to intense vilification online by those who understood the imputations conveyed by Mr Pesutto's statements. For example (and just to give a few examples):
 - i. One Liberal Party Member referred to her, in an online forum for Liberal Party members, as the 'Eva Braun of the western suburbs';
 - ii. Tweets about Mrs Deeming have included "*We don't need polies with extremist views*" and "*The LPs membership has been infiltrated by extremists*".
 - iii. A tweet posted by Mayor Tony Briffa, who represents Hobson's Bay City Council in Mrs Deeming's electorate, stated, "*I look forward to welcoming John Pesutto to Hobsons Bay. His strong leadership of the Liberal Party and principled position re MPs who peddle hatred and vitriol is great to see*".
- f. The publications have caused, and/or exacerbated, a tide of negativity and hatred towards Mrs Deeming which led to her being suspended from the Victorian Liberal Party on 27 March 2023 and then being expelled from the Victorian Liberal Party on 12 May 2023.
- g. Prior to the publications, Mrs Deeming had a respected reputation within the Victorian Liberal Party, her constituency, and the community generally, and was proud of the contribution that she had made, as an individual, a teacher, a Councillor and as a Member of Parliament.
- h. Since the publications, and as a result of them, Mrs Deeming has been subjected to vile abuse and harassment from sections of the public and has suffered severe anxiety including PTSD, and fears for the safety of herself and her family. This reaction, which has been caused by

Mr Pesutto's campaign against Mrs Deeming, reflects the irreparable harm to Mrs Deeming's reputation caused by the publications and the hurt to feelings she has suffered.

- i. Mr Pesutto's role - as the Leader of the Victorian Liberal Party making allegations about a Member of his own Parliamentary Party that successfully led to her suspension firstly and then her expulsion from the parliamentary team - means that many of those to whom his statements were published have believed, and were likely to believe, that the defamatory imputations are true. That is the case irrespective of the actual falsity of the imputations and irrespective of contrary information from Mrs Deeming or other sections of the public and media. This has significantly undermined the way in which Mrs Deeming is seen and regarded not only by constituents and members of the public or the Left or other political persuasions who may actively disagree with Mrs Deeming and her political positions but also by members of the Liberal Party and other persons with centre-right views that would otherwise have supported her. This is particularly the case as Mr Pesutto took the drastic steps toward threatening to expel her and successfully campaigning for her eventual expulsion from the Parliamentary Liberal Party, a highly unusual step in Australian politics, indeed a step of 'last resort', and then expelling her. The fact that Mrs Deeming has been expelled from the Parliamentary Liberal Party will reinforce, in the minds of ordinary reasonable people to whom Mr Pesutto's statements were published, that the imputations were regarded as true by those who voted to suspend or expel Mrs Deeming, that they are true, and that they were the basis for Mrs Deeming's suspension and expulsion.
- j. The media outlets which republished Mr Pesutto's statements have large audiences in Victoria, and other States and Territories throughout Australia. Accordingly, Mr Pesutto's statements were indiscriminately published, as he knew and intended, to the world at large. As we have said above, it is to be inferred that many of those to whom the statements were published would believe, and did believe, the imputations to be true. The incursion by Neo-Nazis at the rally on 18 March 2023, and Mr Pesutto's subsequent steps to have Mrs Deeming removed from the Parliamentary Liberal Party on the basis of associations with Nazism, made the 20 March 2023 Press Conference and other publications particularly topical as news and have made Mrs Deeming the target of vilification and hatred online and on social media.
- k. Mr Pesutto's false allegations against Mrs Deeming have been widely discussed on a large number of other platforms, including social media, particularly given the political interest and notoriety of the incursion by Neo-Nazis at the rally on 18 March 2023 and Mr Pesutto's subsequent campaign to expel Mrs Deeming from the Parliamentary Party on the basis of associations with Nazism, meaning that the grapevine effect has increased the harm to Mrs Deeming's reputation.
- l. The permanence of the publications and ongoing harm. Given the republications of Mr Pesutto's statements, including those referred to above, which remain available online for download, in the absence of a public and fulsome retraction and apology from him, the harm to Mrs Deeming's reputation is likely to continue to be sustained and ongoing indefinitely.

Offer

16. We are instructed to make the following offer in an attempt to resolve the dispute:
 - a. Mr Pesutto will agree to never repeat or republish the statements he made about Mrs Deeming as particularised in this letter or any of the imputations particularised in this letter (or imputations that do not differ in substance).
 - b. Mr Pesutto will provide to Mrs Deeming a signed and dated letter, on his letterhead and personally signed by him, with the following apology, to be used by Mrs Deeming as she sees fit for the purpose of vindicating her reputation:

Apology to Moira Deeming

On 20 March 2023, I gave a press conference and made a number of statements about Moira Deeming's promotion of and participation in the 'Let Women Speak' event on 18 March 2023. I also made statements about her subsequently.

In these statements, I suggested that she had helped promote and assist others with Neo-Nazi sympathies to pursue a hateful agenda to vilify others. Neo-Nazis gatecrashed the event, and they raised Nazi salutes on the steps of Parliament House. I suggested that Moira Deeming had celebrated these Neo-Nazis' attendance and I blamed her for their attendance. I sought her expulsion from the Parliamentary Liberal Party on the basis she was unfit to be a Member and, as a result of my statements, she was expelled.

I now accept that the statements I made about Moira Deeming are false and seriously defamatory of her. I accept that she has no association with Neo-Nazis or anyone with links to Nazism and should not have been expelled from the Parliamentary Liberal Party.

I fully regret making these statements. I unreservedly withdraw them and I undertake not to repeat them.

I sincerely apologise to Moira Deeming for the harm, hurt and distress which she has suffered and which I caused her and her family by making those false statements.

(the "Apology")

- c. Mr Pesutto will publish the Apology for a period of 14 days in a prominent position on his website and all his social media platforms.
 - d. Mr Pesutto will have the statement that was published in Mrs Deeming's name alone on 27 March 2023 deleted from every Liberal Party platform.
 - e. Mr Pesutto will pay Mrs Deeming compensation, to be determined by the Court in the absence of agreement as to the amount.
 - f. Mr Pesutto will pay Mrs Deeming her reasonable legal costs in pursuing this matter.
17. Finally, in anticipation of legal proceedings, we repeat the request that we have made previously – namely, that Mr Pesutto retain all communications, from 18 March 2023 to date and ongoing, which are potentially relevant to Mrs Deeming's claim for defamation and the events referred to in this letter – including (without limitation) all records of communications:
- a. between Mr Pesutto, or others on his behalf or at his direction, and any journalists or members of the media in respect of arranging the 20 March Press Conference; and
 - b. between Mr Pesutto, or others on his behalf or at his direction, and any journalists or members of the media in relation to any of the statements he made at the 20 March Press Conference.
- This includes immediately capturing relevant "disappearing" messages that have been exchanged on messaging systems, including WhatsApp and Signal.
18. We note that Mr Pesutto has 28 days to offer to make amends under the Act. However, noting the severe and ongoing harm to Mrs Deeming, and the period of time that has already passed since the publications and since her expulsion on 12 May 2023, the offer in this letter will only remain open for Mr Pesutto's acceptance for **7 days from the date of the letter**.
19. We await your response as soon as possible.

Yours faithfully
COMPANY GILES



Patrick George
(Principal)