

BETWEEN:

CHAO-LING HSU

Appellant

and

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RACQ INSURANCE LIMITED

Respondent

APPELLANT'S REPLY

Part I: Certification regarding publication

1. I certify that this submission is in a form suitable for publication on the internet.

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Part II: Argument in reply

2. The interests of the Appellant are precisely co-extensive with those of the Appellant in High Court Appeal No. B61 of 2018, and the Appellant adopts and relies upon Part II of the Reply filed on behalf of the Appellant in that appeal.
3. The Appellant makes the following additional submissions in reply to the Respondent's submissions (as set out in the Respondent's submissions filed in High Court Appeal No. B61 of 2018).
4. As to paragraph 25, the Respondent contends that the trial judge's finding of evasiveness was a primary observation of the character and demeanour of the evidence of the Appellant and her son, Lien-Yang Lee. The Third Respondent refers to submissions made at trial as to the evidence of the Appellant and Lien-Yang Lee, including a criticism of the number of requests for questions to be repeated in cross-examination.
5. There is nothing surprising about the Appellant's need for repetition in the context of her giving evidence through an interpreter. By way of example, three such requests for repetition were made when the Appellant became seemingly confused by the

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Little's Lawyers
Level 32, Riparian Plaza
71 Eagle Street
BRISBANE QLD 4000

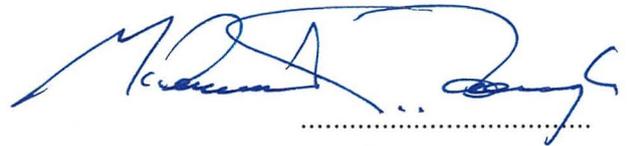


Telephone: (07) 3225 0777
Fax: (07) 3036 4670
Email: csham@littles.co
Reference: CS:JY:100124

proposition that it "would be a good idea" for her son to obtain a driver's licence, when he had not yet obtained his learner's permit.¹

6. The Court of Appeal accepted that the demeanour of the Appellant was to be given less weight for the fact that she gave her evidence through an interpreter.²
7. As to paragraph 27, the Respondent points to the Appellant's evidence of the Toyota (the Lee vehicle) being on the correct side of the road, whereas the evidence of the other driver, Mr Hannan, was that the Toyota could not have been further into his side of the road. The Court of Appeal summarised the evidence of the Appellant and Mr Hannan regarding the collision and expressly noted that the Appellant's evidence did not contradict Mr Hannan's account of the collision.³ In any event, neither the trial judge nor the Court of Appeal referred to that evidentiary matter in assessing the credibility of the Appellant's evidence.

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MICHAEL GRANT-TAYLOR QC
Telephone: 07 3831 8808
Email: granttaylor@qldbar.asn.au

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¹ Court of Appeal record book page 116 (being T2-28) line 9-44.

² Core Appeal Book (CAB) page 88 at [127].

³ CAB page 68 at [12] to [13].