

BETWEEN:

CHIN-FU LEE



Appellant

and

RACQ INSURANCE LIMITED

Respondent

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### APPELLANT'S SUBMISSIONS

#### Part I: Certification regarding publication

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

#### Part II: Issues

2. The issues are:

- (a) whether the Court of Appeal failed to give adequate reasons for its judgment, even though the reasons given were substantial, by failing to address the evidence of Dr Grigg regarding the function of seatbelt pre-tensioners and the inferences submitted to arise from it;
- 30 (b) what is the meaning of "misuse of the trial judge's advantage" and did the Court of Appeal err by failing to conclude that the trial judge had done so and that the finding that Lien-Yang Lee was the driver of the vehicle was contrary to compelling inferences from uncontroverted evidence.

#### Part III: *Judiciary Act 1903 (Cth)*, s 78B

3. The Appellant certifies that he has considered whether any notice should be given to the Attorneys-General in compliance with s 78B of the *Judiciary Act 1903 (Cth)* and has concluded that no such notice need be given.

#### 40 Part IV: Citations

4. The medium neutral citation of the primary judgment of the Supreme Court of

Queensland is *Lee v Lee* [2017] QSC 042.

5. The judgment of the Supreme Court, Court of Appeal is reported at (2018) 84 MVR 316. The medium neutral citation is [2018] QCA 104.

**Part V: Facts**

6. 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 V of the submission filed on behalf of the Appellant in that appeal.

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**Part VI: Argument**

7. 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 VI of the submission filed on behalf of the Appellant in that appeal.

**Part VII: Orders Sought**

8. The Appellant seeks the following orders:
- (a) That the appeal be allowed.
  - (b) That the judgment and orders of the Court of Appeal be set aside.
  - 20 (c) That, in lieu of that judgment and those orders, it be ordered:
    - (i) that the judgment and orders of the trial judge dated 23 March, 2017 be set aside;
    - (ii) that, in lieu of the judgment and orders of the trial judge, there be judgment for the Appellant on the Respondent's counterclaim against the Appellant;
    - (iii) that the Respondent pay the Appellant's costs of the counterclaim on the standard basis;
    - (iv) that the Respondent pay the Appellant's costs of the appeal to the Court of Appeal on the standard basis.
  - 30 (d) That the Respondent pay the Appellant's costs of the appeal to this court, on the standard basis.

**Part VIII: Time Estimate**

9. The Appellant's estimate is that 30 minutes will be required for the presentation of his oral argument.

Dated: 10 January 2019



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