

8 April 2016

Hon Yvette D'Ath

Attorney General and Minister for Justice and Minister for Training and Skills

Attorney General's Department

GPO Box 149
BRISBANE QLD 4001

By email: attorney@ministerial.qld.gov.au

Dear Attorney General

Maggs-v-RACQ Insurance Limited [2016] QSC 41

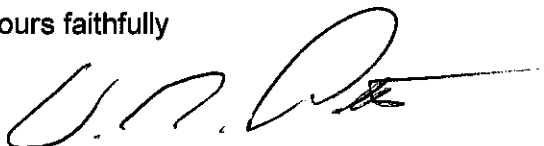
I write on behalf of Queensland Law Society to draw your attention to this matter and advise that, in the Society's view, the decision-whilest arguably legally correct-represents an injustice which should be resolved by urgent legislative amendment.

The decision concerns compensation paid to a child, pursuant to s 65 of the *Civil Proceedings Act 2011* (the Act), following the deaths of both her parents in a motor vehicle accident. As the child was just over a year old at the time of the accident, the monies will be managed until she reaches majority-which will incur significant management fees. An amount for those fees was included in the claim.

RACQ successfully opposed the inclusion of the management fees on the basis that the fees will arise after the death of the parents and not as a result of those deaths. The effect of this is that the amount awarded to the child for the loss of her parents will be significantly depleted by the cost of managing the funds; it is the Society's position that such a harsh result was never the intention of the drafters of the Act, and that urgent amendment is required to ensure that damages awarded under the Act can include the cost of management fees related to the damages, by virtue of a claimant's youth, incapacity or other factor.

Please do not hesitate to contact either myself or have a member of your staff contact our Policy Solicitor, Annmaree Verderosa on (07) 3842 5872 or a.verderosa@qls.com.au if you wish to discuss these concepts further.

Yours faithfully



Bill Potts
President