

**COURT OF APPEAL  
SUPREME COURT OF QUEENSLAND**

CA NUMBER: 1001  
NUMBER: 101/23

Appellant: **STATE OF QUEENSLAND**  
AND  
Respondent: **PAUL JOHN SMITH**

**NOTICE OF APPEAL**

To the respondent  
And to the Registrar, District Court

TAKE NOTICE that the appellant appeals to the Court of Appeal against the whole of the order of the District Court.

**1. THE DETAILS OF THE JUDGMENT APPEALED AGAINST ARE –**

Date of Judgment: 3 March 2023  
Description of Proceedings DC 101/23  
Description of parties involved in the proceedings:  
PAUL JOHN SMITH as Plaintiff  
AND  
STATE OF QUEENSLAND as Defendant  
Name of Primary Court Judge: Conner DJC  
Location of Primary Court: Brisbane

**2. GROUNDS -**

1. The Judge should have found that the risk to the plaintiff was an obvious risk pursuant to Section 13 of the *Civil Liability Act 2003*.
2. The Judge should have found that the plaintiff was engaged in a dangerous recreational activity pursuant to Section 18 of the *Civil Liability Act 2003*.
3. The Judge should have found that the defendant is not liable in negligence for the harm suffered by the plaintiff because the harm suffered was the materialisation of an obvious risk of a dangerous recreational activity engaged in by the plaintiff pursuant to Section 19 of the *Civil Liability Act 2003*.
4. The Judge should have found that the defendant did not beach its duty of care to the plaintiff.

**3. ORDERS SOUGHT -**

**1. The plaintiff's claim is dismissed.**

Signed: *Crown Law*

Description: Solicitor for the Appellant

Dated: 12 March 2023

This Notice of Appeal is to be served on: PAUL JOHN SMITH

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NOTICE OF APPEAL  
Filed on Behalf of the Defendant  
Form 64, Version 4  
Uniform Civil Procedure Rules 1999  
Rule 747(1)

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Name: Crown Law  
Address: George Street  
Brisbane 4001  
Phone No: 3470 4555  
Fax No: 3470 4556