

IN THE SUPREME COURT OF FLORIDA

Case No. SC19-1305

PEOPLES GAS SYSTEM,

Appellant,

v.

POSEN CONSTRUCTION, INC.,

Appellee.

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**FLORIDA JUSTICE REFORM INSTITUTE'S UNOPPOSED  
MOTION FOR LEAVE TO APPEAR AS AMICUS CURIAE  
IN SUPPORT OF APPELLANT**

Pursuant to Florida Rule of Appellate Procedure 9.370, the Florida Justice Reform Institute (the "Institute") files this unopposed motion for leave to appear as amicus curiae in support of Appellant Peoples Gas System ("PGS"). Because the Institute's amicus brief would be due today if the Court were to grant this motion, the Institute is filing its proposed brief contemporaneously with this motion. In support of the motion, the Institute states:

1. **Interest of Amicus Curiae.** The Institute is Florida's leading organization of concerned citizens, business owners, business leaders, and lawyers, who work toward the common goal of promoting predictability and personal responsibility in Florida's civil justice system through the promotion of fair and equitable legal practices. The Institute supports the position of Appellant PGS,

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whose interests are aligned with the interests of the Institute's members who are litigating or are likely to be litigating actions of this nature, and seek to ensure the uniform interpretation and application of the Florida Underground Facility Damage Prevention and Safety Act (the "Act").

**2. Issue Amicus Curiae Addresses and How Amicus Curiae Can Assist the Court.** The proposed amicus brief addresses the importance of having courts faithfully follow the text of Florida civil liability statutes and carefully observe the limits of their jurisdiction, to further consistency and predictability in our civil justice system. The plain and unambiguous language of the Act permits recovery of damages or indemnification against excavators whose violations of the Act result in losses. Denying a plaintiff, such as PGS, its statutory right to recover the losses it suffered because of an excavation accident caused by the excavator would render the relevant provisions of the Act meaningless.

**3. Certificate of Consultation.** The undersigned has consulted counsel for the parties and is authorized to represent that both Appellant and Appellee consent to the relief requested in this motion.

**WHEREFORE**, the Institute respectfully requests the Court to grant this motion, allowing the Institute to file a brief as amicus curiae in support of Appellant Peoples Gas System, and accepting as timely filed the amicus brief that the Institute is filing contemporaneously with this motion.

Respectfully submitted,

GRAY ROBINSON, P.A.  
333 S.E. Second Avenue, Suite 3200  
Miami, Florida 33131  
(305) 416-6880 Telephone  
(305) 416-6887 Facsimile

/s/ Frank A. Shepherd  
Frank A. Shepherd  
Florida Bar No. 152620  
frank.shepherd@gray-robinson.com

-and-

William W. Large, Esq.  
Fla. Bar No. 981273  
william@fljustice.org  
Florida Justice Reform Institute  
210 South Monroe Street  
Tallahassee, Florida 32301  
Tel.: (850) 222-0170  
Fax: (850) 222-1098

*Counsel for Amicus Curiae*  
*Florida Justice Reform Institute*

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on October 14, 2019, this motion was filed with the Clerk of the Court, using the Florida Courts E-Filing Portal, which will send an electronic copy of the motion to the following counsel of record.

A. Hinda Klein  
Samuel B. Spinner  
CONROY SIMBERG  
3440 Hollywood Boulevard  
Second Floor  
Hollywood, FL 33021  
hklein@conroysimberg.com  
sspinner@conroysimberg.com  
*Counsel for Appellee*

Jason Gonzalez  
Daniel E. Nordby  
Amber Stoner Nunnally  
SHUTTS & BOWEN LLP  
215 S. Monroe Street, Suite 804  
Tallahassee, Florida 32301  
jasongonzalez@shutts.com  
dnordby@shutts.com  
anunnally@shutts.com  
*Counsel for Appellant*

V. Stephen Cohen  
Pedro F. Bajo, Jr.  
James C. Mooney  
BAJO CUVA COHEN &  
TURKEL, P.A.  
100 North Tampa Street  
Suite 1900  
Tampa, Florida 33602  
scohen@bajocuva.com  
pedro.bajo@bajocuva.com  
jmooney@bajocuva.com  
*Counsel for Appellant*

Julissa Rodriguez  
SHUTTS & BOWEN LLP  
200 South Biscayne Boulevard  
Suite 4100  
Miami, Florida 33131  
jrodriguez@shutts.com  
*Counsel for Appellant*

/s/ Frank A. Shepherd