

**IN THE FOURTH DISTRICT COURT OF APPEAL
WEST PALM BEACH, FLORIDA**

IN RE:

Case No. 4D22-2241

THE PLANTATION EXPLOSION CASES
(PERTAINS TO ALL CASES)

_____ /

NOTICE TO INVOKE DISCRETIONARY JURISDICTION

NOTICE IS HEREBY GIVEN that petitioner Peoples Gas System (“Peoples Gas”) invokes the discretionary jurisdiction of the Florida Supreme Court to review the Court’s February 15, 2023 decision denying Peoples Gas’s Petition for Writ of Certiorari and the Court’s April 13, 2023 denial of Peoples Gas’s Motion for Rehearing, Rehearing En Banc, Certification, or In the Alternative for a Written Opinion, which explained and rendered final the Court’s decision. See Fla R. App. P. 9.020(i); see also *St. Paul Fire & Marine Ins. Co. v. Indem. Ins. Co. of N. Am.*, 675 So. 2d 590, 592 (Fla. 1996) (“[A] district court’s order is not ‘rendered’ until there has been a disposition of all motions relative to that order.”). The decision expressly and directly conflicts with the decisions of another district court of appeal and the Florida Supreme Court on the same question of law. See Art. V, § 3(b)(3), Fla. Const.; Fla. R. App. P. 9.020(a)(2)(A)(iv).

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Respectfully submitted,

/s/ Stacy D. Blank

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 10, 2023, I electronically filed the foregoing by using the Florida E-Portal system.

I FURTHER CERTIFY that on May 10, 2023, I served the foregoing via email on the following:

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DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

PEOPLES GAS SYSTEM, a division of Tampa Electric Company,
Petitioner,

v.

UNIVERSAL PROPERTY & CASUALTY INSURANCE, et al.,
Respondents.

No. 4D22-2241

[February 15, 2023]

Petition for writ of certiorari to the Circuit Court for the Seventeenth Judicial Circuit, Broward County: Patti E. Henning, Judge; L.T. Case No. CACE20-90000.

Stacy D. Blank, Martin E. Burke and Brandon Faulkner of Holland & Knight LLP, Tampa, for petitioner.

Philip M. Burlington and Jeffrey V. Mansell of Burlington & Rockenbach, P.A., West Palm Beach, for respondents.

PER CURIAM.

The petition for writ of certiorari is denied. *See Grinnell Corp. v. Palms 2100 Ocean Blvd., Ltd.* 924 So. 2d 887 (Fla. 4th DCA 2006).

Petition denied.

WARNER, DAMOORGIAN and LEVINE, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401**

April 13, 2023

CASE NO.: 4D22-2241

L.T. No.: CACE20-90000

PEOPLES GAS SYSTEM, a division of
TAMPA ELECTRIC COMPANY

v. UNIVERSAL PROPERTY & CASUALTY
INSURANCE, et al.

Appellant / Petitioner(s)

Appellee / Respondent(s)

BY ORDER OF THE COURT:

ORDERED that petitioner's March 2, 2023 motion for rehearing, rehearing en banc, certification, or in the alternative, for a written opinion is denied. Certiorari is a discretionary writ whose issuance lies within the judicial discretion of the appellate court. *Combs v. State*, 436 So. 2d 93, 95-96 (Fla. 1983). In this case, the trial court properly bifurcated the issues permitting Universal to inquire into the facts but prohibiting inquiry into the refining, synthesizing, or use of the information gathered at the request of counsel. "[T]he work product concept furnishes no shield against discovery, by interrogatories or by deposition, of the facts that the adverse party's lawyer has learned, or the persons from whom he has learned such facts." *Grinnell Corp. v. Palms 2100 Ocean Blvd., Ltd.*, 924 So. 2d 887, 894 (Fla. 4th DCA 2006) (quoting *Ford v. Philips Elecs. Instruments Co.*, 82 F.R.D. 359, 360 (E.D. Pa.1979)). Therefore, all motions are denied.

DAMOORGIAN and LEVINE, JJ., concur.

WARNER, J. dissenting on rehearing.

I would grant rehearing and grant the petition for writ of certiorari. The petition seeks to quash the order compelling a witness to disclose fact work product obtained as a result of attorney-directed investigation in anticipation of litigation. Such work product is protected and is discoverable on a showing of need and undue hardship. See *S. Bell Tel. & Tel. Co. v. Deason*, 632 So. 2d 1377, 1384 (Fla. 1994); *Heartland Express, Inc., of Iowa v. Torres*, 90 So. 3d 365, 367 (Fla. 1st DCA 2012). The trial court did not determine whether respondent had met her burden of showing undue hardship. See e.g. *Millard Mall Servs. v. Bolda*, 155 So. 3d 1272 (Fla. 4 DCA 2015). I would grant the petition, quash the order, and direct the

trial court to determine whether respondent has satisfied its burden of showing that it cannot obtain the equivalent discovery through other means without undue hardship. Fla. R. Civ. P. 1.280(b)(4).

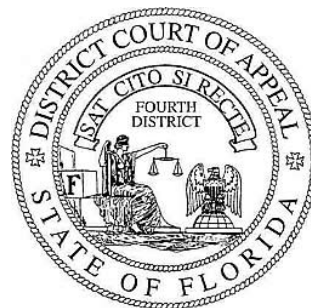
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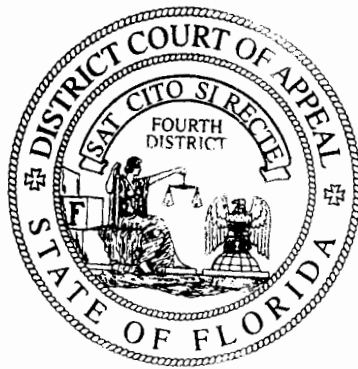
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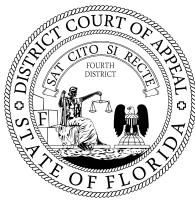




I hereby certify that the above and foregoing is a true copy of instrument filed in my office.

**Lonn Weissblum, CLERK
DISTRICT COURT OF APPEAL OF
FLORIDA, FOURTH DISTRICT**

Per *Kristen Amoro*
Deputy Clerk



**FOURTH DISTRICT COURT OF APPEAL
110 SOUTH TAMARIND AVENUE
WEST PALM BEACH, FLORIDA 33401
(561) 242-2000**

Date: May 11, 2023

Case Name: Peoples Gas System, a division of Tampa Electric Company v. Universal Property & Casualty Insurance Company, et al. (See attached list of parties)

Case No: 4D 22-2241

Trial Court No.: CACE20-90000

Trial Court Judge: Patti Englander Henning

Dear Mr. Tomasino:

Attached is a certified copy of a Notice to Invoke Discretionary Jurisdiction/Notice of Appeal to the Supreme Court of Florida pursuant to Rule 9.120, Florida Rules of Appellate Procedure. Attached also is this Court's opinion or decision relevant to this case.

- The filing fee prescribed by Section 25.241(3), Florida Statutes, was received by this court and will be mailed.
- The filing fee prescribed by Section 25.241(3), Florida Statutes, was not received by this court.
- Petitioner/Appellant has been previously determined insolvent by the circuit court or our court.
- Petitioner/Appellant has already filed, and this court has granted, petitioner/appellant's Motion to proceed without payment of costs in this case.
- Petitioner/Appellant filed Notice via EDCA and the fee has not been received by this court.

No filing fee is required in the underlying case in this court because it was:

- A Summary Appeal (Rule 9.141)
- From the Unemployment Appeals Commission
- A Habeas Corpus Proceeding
- A Juvenile Case
- Other – _____

If there are any questions regarding this matter, please do not hesitate to contact this Office.

Sincerely,

LONN WEISSBLUM
Clerk of the Court

By: /s/ Kristen Amaro
Deputy Clerk

List of Parties

Peoples Gas System and Tampa Electric Company v. Locust Gardens and Edens, Dominic Dattilio, Teri Dattilio, Genevieve Manzoni, Abbie Bryan, Carolina Sassi, Robert Shanley, Carolina Luna, Inez Slijngard, Sheldon Peterson, Toan Loung, Amanda Furar, Tomeika Johnson, Dhanpat Jassodra, Fernando Feijoo, Plantation Smoothie, Jill Solich, Michael Stewart, Jonathan Jackson, Ethan Jackson, Kara Ann Schroeder, Takka Takka Too, Jolie (Hiep) Van, Shaina Webster, Fednat Insurance Company, Van Brothers, Jeon's Korean Martial Arts, Inc., Antonio Rios, Freddy Malpartida, Liberty Mutual, Penny Green, Bridget Oare, Zurich, Travelers, Tokio, Liberty, Ace, Interstate, XL, Westport, Candice Mellon, C.G., a minor, Amanda Kobernick, Humberto DeMarco, Hemali Patel, Avitran, Pnina Cohen, Jose Larrauri, Jean Bellot, Ann Hunt, Donald Sapperstein, Ana Pulido, Ana Naya Perez, LA Fitness, LLC, Kyle Hill, Universal Property & Casualty Insurance Company, Anjelica Salazar, Ryan Sewell, Fathi Ibrahim, Luis Penate, Nyree Penn, Justin Housen, Nestor Amaya, Shakia Curry, Pernell Johnson, Jae Chun, Facilities Cleaning & Maintenance, Inc., Facilities Pro-Sweep, Nationwide, Zurich Carrabba's Subro, Matthew Seese, Nathan Lake, Telles Services, LLC, Kimberly Wilbanks, Christopher Scott, Gregory Davenport, Leilla Blackwell, Farideh Ashmadi-Assil, Tania Lance, Joseph Wolph, Jamie Ramirez, Phillip Yerou, and Michael Boswell