

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**MARCIA G. FLEMING; CASEY  
FREEMAN; DAVID GUYON; ANTHONY  
LOSCALZO; PATRICK ROSEBERRY;  
and JULIO SAMNIEGO individually, on  
behalf of the Rollins, Inc. 401(k) Savings  
Plan and on behalf of all similarly situated  
participants and beneficiaries of the Plan,**

**Plaintiffs,**

**v.**

**ROLLINS, INC.; THE ADMINISTRATIVE  
COMMITTEE OF THE ROLLINS, INC.  
401(k) SAVINGS PLAN, BOTH  
INDIVIDUALLY AND AS THE *DE  
FACTO* INVESTMENT COMMITTEE OF  
THE ROLLINS, INC. 401(k) SAVINGS  
PLAN; EMPOWER RETIREMENT, LLC  
F/K/A PRUDENTIAL INSURANCE AND  
ANNUITY COMPANY; PRUDENTIAL  
BANK & TRUST, FBS, AS DIRECTED  
TRUSTEE OF THE ROLLINS, INC. 401(k)  
PLAN TRUST; ALLIANT INSURANCE  
SERVICES, INC.; ALLIANT  
RETIREMENT SERVICES, LLC; PAUL  
E. NORTHEN, JOHN WILSON, JERRY  
GAHLHOFF, JAMES BENTON, and A.  
KEITH PAYNE in their capacities as  
members of the Administrative Committee;  
and John and Jane Does 1–10,**

**Defendants.**

**Case No. 1:21-cv-05343-ELR**

**DECLARATION OF PAUL J. SHARMAN**

I, Paul J. Sharman, declare as follows:

1. I make this Declaration of my own personal knowledge, and if called as a witness, I would and could testify competently to the matters stated herein.

2. I am the owner of the law firm The Sharman Law Firm LLC (“Sharman Law”).

3. I have been actively involved in this lawsuit including but not limited to interviewing and qualifying prospective plaintiffs, investigating the claims, filing administrative claims and appeals, preparing the complaints and amended complaints, meeting and conferring with defense counsel regarding motion scheduling, discovery and case management, reviewing Defendants’ document productions, representing Plaintiffs at hearings and case conferences, retaining experts, and opposing Defendants’ motions to dismiss.

4. I make this declaration in support of Plaintiffs’ Unopposed Motion for Final Approval of Settlement and Plaintiffs’ Motion for Attorneys’ Fees, Costs and Case Contribution Award. The Court appointed me, along with Gregory Porter and Mark Boyko at Bailey Glasser and Jon Pels of the Pels Law Firm as Class Counsel for a class of Rollins Plan participants on December 1, 2023. *See* Dkt. 123, ¶10.<sup>1</sup>

**A. Background and Experience of Paul Sharman**

5. I have about seven years of experience with complex ERISA matters and 11 years of experience with class action litigation. The experience of the attorneys at co-counsel, are set forth in the Declarations of Mark Boyko (the “Boyko Decl.”) and Jon Pels (the “Pels Decl.”) submitted contemporaneously with my Declaration.

6. I have been working on ERISA class actions since 2016. I brought in Jon Pels early in the case as his firm has specific experience with plaintiffs’ class action matters. I have also

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<sup>1</sup> Together the Sharman Law Firm LLC, Bailey Glasser LLP, and The Pels Law Firm are referred to herein as “Class Counsel.”

brought in co-counsel at Bailey Glasser with decades of experience in these types of complex ERISA class action matters to assist with mediation and settlement.

7. I currently represent plaintiffs in several other ERISA lawsuits of this type across the country. Additional background on the qualifications of Class Counsel were submitted as part of the previously filed Motion for Class Certification.

**B. Work Performed by Class Counsel**

8. This was an extremely hard-fought litigation in which I devoted a tremendous amount of time and effort to this case. The initial plaintiff, Marcia Fleming, reached out to me in early 2019 and upon review by financial experts I engaged at the time, we decided to move forward with this litigation. Following that decision I:

- a. Drafted and filed a class action complaint that was filed in December 2019;
- b. Drafted and filed an amended class action complaint in May 2020;
- c. Following dismissal without prejudice of the 2020 amended complaint, drafted and filed an administrative claim and subsequent appeal, adding five additional named plaintiffs;
- d. Following denial of the administrative claims and denial of the appeal, drafted and filed a renewed class action complaint in December 2021;
- e. Drafted and filed an amended complaint in April 2022;
- f. Drafted and filed responses to Defendants' Motions to Dismiss the Amended Complaint;
- g. Upon partial denial of Defendants' Motions to Dismiss, conferred with Defense counsel regarding scheduling of discovery;
- h. Interviewed several experts to assist with discovery;

- i. Interviewed several prospective co-counsel firms to assist with potential mediation and settlement discussions;
  - j. Assisted in the preparation of a lengthy mediation statement and reply to Defendants' mediation statement in advance of the parties' mediation on August 3, 2023;
  - k. Engaged in a full-day mediation session before Robert A. Meyer of JAMS on August 3, 2023;
  - l. Assisted in the negotiation with Defendants the terms of Settlement and drafting of the papers associated with Plaintiffs' unopposed motion and incorporated memorandum of law for preliminary approval of settlement (*see* Dkt. 122 );
  - m. Assisted in the preparation of the present motions and supporting papers.
9. Throughout the life of this case, the parties have engaged in numerous settlement discussions including a private full-day mediation on August 3, 2023, attended by Plaintiffs, the Rollins Defendants, and Alliant defendants, through their counsel, where those in attendance participated in an arm's length and good faith mediation with Robert A. Meyer of JAMS, a mediator with substantial experience with ERISA cases.

**C. Class Counsel's One Third Contingency Fee Agreements With the Named Plaintiffs is Market Rate**

12. The named Plaintiffs, Marcia G. Fleming, Casey Freeman, David Guyon, Anthony Loscalzo, Patrick Roseberry, and Julio Samaniego, entered into engagement agreements with Class Counsel in which Plaintiffs agreed to a one-third contingency fee prior to litigation and 40% contingency fee once an answer is filed, and to reimbursement of expenses in the event that the action was successfully resolved. A contingency fee of one third is the typical market rate to provide ERISA class action representation. Clients of Sharman Law in other ERISA class action

cases sign similar engagement agreements in which they agree for Sharman Law to advance the costs of the litigation and receive one third or 40% of any monetary recovery and/or judgments depending on when or if the case settles.

13. Class Counsel's depth of experience with ERISA claims and class action litigation allowed counsel to pursue the case and negotiate a settlement that capitalized on the claims' strengths while taking into account the risks of continued litigation.

14. Only a small number of plaintiffs' firms have the necessary expertise and are willing to take the risk and devote the resources to litigate complex ERISA fiduciary breach cases. Even though I had seven years of ERISA and class action experience, this was my first case of this specific kind (401(k) breach of fiduciary duty). I knew that I needed a nationally experienced co-counsel firm for the next phase of the case once discovery commenced. In light of the complexity and scope of this action, I had to forego other cases throughout the five years I spent working on this matter.

15. As further described in Plaintiffs' Motion for Attorney Fees and Costs, I believe these facts are supportive of Plaintiffs' fee request for one-third of the total \$3,925,000 recovery in this action in conformity with Eleventh Circuit case law.

**D. Summary of Time and Expenses of Paul J. Sharman**

16. I have collectively expended 1357.5 hours litigating this case since its inception. I also spent 30 hours on the administrative claim and appeal. The total lodestar as of this date for The Sharman Law Firm is \$901,875.

17. The below summary of time and expenses was taken from computer-based timekeeping programs, in which Sharman Law maintained their fees and expense records.

18. Sharman Law's fee summaries demonstrate the amount of time spent on this litigation and how Plaintiff's counsel's lodestar was calculated.<sup>2</sup> Given the market where Class Counsel litigated the case, and the skills and experience required to litigate, Sharman Law is using the following rates in determining the lodestar:

Name	Position	Hours	Hourly Rate	Lodestar
Paul Sharman	Owner/Counsel	1387.5	\$650	\$901,875

19. As noted above, Sharman Law expects to contribute additional time and resources relating to Plaintiffs' forthcoming motion for final approval, the Fairness Hearing, and subsequent Settlement administration and oversight. I expect that Sharman law will expend an additional 20 to 40 hours of professional time after the date of this Declaration.

20. All of the work of Sharman Law has been undertaken on a contingent basis. To date, Sharman Law has not been compensated for any of this work.

21. Because of my experience litigating similar ERISA cases and bringing in experienced co-counsel, we were able to efficiently and effectively litigate this action. In my professional opinion and based on my personal knowledge of the work that was performed and the requirements of this case and similar cases, all of the time expended on this action by Sharman Law was reasonable and necessary.

22. A lodestar multiplier of around 1.05 is reasonable for litigation of this type.

**E. Expenses**

23. Sharman Law has incurred \$ 176,102 in litigation expenses. All of the expenses were necessary and appropriate for the prosecution of this action, and all are of the type that are customarily incurred in litigation and routinely charged to clients billed by the hour.

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<sup>2</sup> Time spent by legal assistants and law clerks were not billed.

24. In total, expenses by Sharman Law fell into the following categories:

<b>Item</b>	<b>Total Cost</b>
Court fees	\$1,102
Expert Fees	\$175,000

I declare, pursuant to 28 U.S.C. § 1746 and under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed at Alpharetta, Georgia this 15<sup>th</sup> day of February, 2024.

*/s/ Paul J. Sharman* \_\_\_\_\_