

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 JON D. PELS

I, Jon D. Pels, 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 Pels Law Firm LLC (“Pels Law”).

3. I have been actively involved in this lawsuit including but not limited to investigating the claims, preparing the complaints and amended complaints, meeting and conferring with defense counsel regarding motion scheduling, discovery and case management, retaining experts, opposing Defendants’ motions to dismiss, attending mediation(s), and participating in settlement negotiations.

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 of Bailey Glasser LLP, and Paul J. Sharman of The Sharman Law Firm LLC as Class Counsel for a class of Rollins Plan participants on December 1, 2023. *See* Dkt. 123, ¶10.¹

A. Background and Experience of Jon D. Pels²

5. I have more than thirty years of experience in litigation, including class action litigation, where I obtained an order certifying a class action on behalf of Maryland mobile home owners challenging building codes and inspection practices of numerous counties throughout the State of Maryland and obtained an order approving a statewide settlement. (*Ellerbe v. Chesapeake Mobile Homes, et al.*, Circuit Court Anne Arundel County, Maryland)

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

² The experience of the attorneys at co-counsel, are set forth in the Declarations of Mark Boyko (the “Boyko Decl.”) and Paul J. Sharman (the “Sharman Decl.”) submitted contemporaneously with my Declaration.

6. I was named Maryland Trial Lawyer of the Year (2007); National Trial Lawyers Top 100 Civil Plaintiff Trial Lawyers in Maryland (2019 & 2020); National Trial Lawyers Association – Top 10 Business Tort Trial Lawyers in Maryland (2020)

7. Additional background on the qualifications of Class Counsel was submitted as part of the previously filed Motion for Class Certification.

B. Work Performed by Class Counsel

8. I have been involved in this case from its very inception, when upon review of the Rollins plans at issue in this case by the financial experts I engaged at the time, we decided to move forward with this litigation. Following that decision I was involved in:

- a. Communicating with actual and potential plaintiffs;
- b. Drafting the complaints;
- c. Reviewing an opposing to Defendants' motions to dismiss;
- d. Conferring with Defense counsel regarding scheduling of discovery;
- e. Retaining experts to assist with discovery;
- f. Retaining co-counsel to assist with potential mediation and settlement discussions;
- g. Attending mediation on August 3, 2023;
- h. Negotiating with Defendants the terms of settlement;
- i. Assisting in the preparation of the present motions and supporting papers.

C. Class Counsel's Contingency Fee Agreements with the Named Plaintiffs Are Consistent with the Market Rate

9. 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 and to reimbursement of expenses in the event that the action was successfully resolved prior to Defendants filing an

answer. A contingency fee of one third is the typical market rate to provide ERISA class action representation.

10. In my experience, the market for experienced and competent lawyers willing to pursue complex ERISA class action litigation is a national one and the rate of one-third of total monetary recovery, plus expenses, is the market rate that Courts have found to be reasonable in many other complex ERISA breach of fiduciary duty actions, including in the Eleventh Circuit.

11. 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.

12. Class Counsel has always been confident in their chances of success in this matter. However, ERISA breach of fiduciary class actions involve tremendous risk, require finding and obtaining opinions from expensive, unconflicted, consulting and testifying experts in finance, investment management, fiduciary practices, and related fields, and are extremely hard fought and well defended. This case alone took almost five years to reach this point and could take several more to reach trial.

13. 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 Pels Law

14. Pels Law has expended 106.1 hours litigating this case since its inception. The total lodestar as of this date for Pels Law is \$60,405.00

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

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

Name	Position	Hours	Hourly Rate	Lodestar
Jon D. Pels	Owner/Counsel	63.30	\$650	\$41,145.00
Katerina Newell	Attorney	42.30	\$450	\$19,035.00
Alvaro Llosa	Attorney	.50	\$450	\$225.00
TOTAL		106.1		\$60,405.00

17. As noted above, Pels 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 Pels Law will expend an additional 10 to 25 hours of professional time after the date of this Declaration.

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

19. 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 Pels Law was reasonable and necessary.

20. A lodestar multiplier of 1.1 is reasonable — indeed, below reasonable — for litigation of this type.

E. Expenses

21. Pels Law has incurred \$4,280 in litigation expenses, related to communications with Class Members, including the Named Plaintiffs, and travel to/from the Fairness Hearing.

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 Bethesda, Maryland this 14th day of February 2024.

/s/ Jon D. Pels