

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

MARK T. SPIVEY, individually and on behalf of a class of all  
others similarly situated,

Plaintiff,

v.

SOUTHERN COMPANY, *et al*,

Defendants.

Civil Case No. 1:04-CV-1912-RWS

NOTICE OF CLASS ACTION SETTLEMENT,  
SETTLEMENT FAIRNESS HEARING, AND MOTION FOR ATTORNEYS' FEES  
AND REIMBURSEMENT OF ATTORNEYS' EXPENSES

TO THE FOLLOWING "SETTLEMENT CLASS":

All persons who were participants in or beneficiaries of the Southern Company Employee Savings Plan (the "Plan") at any time between April 2, 2001 and July 26, 2006 (the "Class Period") and whose Plan accounts held Mirant Stock in the Plan's Mirant Stock Fund, excluding the Southern Defendants and their Immediate Family, beneficiaries, alternate payees, Representatives, or Successors-in-Interest in connection with their accounts in the Plan (the "Settlement Class").

**PLEASE READ THIS NOTICE CAREFULLY.  
A FEDERAL COURT AUTHORIZED THIS NOTICE.  
THIS IS NOT A SOLICITATION.**

The United States District Court for the Northern District of Georgia (the "Court") has preliminarily approved a proposed settlement (the "Settlement") of a class action lawsuit, *Spivey v. Southern Co. et al.*, Case No. 1:04-CV-1912-RWS (the "Lawsuit"), brought under the Employee Retirement Income Security Act ("ERISA") against the following defendants: Southern Company, Southern Company Services, Inc., Employee Savings Plan Committee, Michael D. Garrett, Charles D. McCrary, David M. Ratcliffe, H. Allen Franklin, Elmer B. Harris, Robert A. Bell, W. Dean Hudson, Ellen N. Lindemann, Christopher C. Womack, R. Craig Elder, Thomas A. Fanning, Robert M. Gilbert, Carson B. Harreld, William B. Hutchins, III, Kathleen S. King, Ronnie R. Labrato, Michael W. Southern, Kirby R. Willis, Gale E. Klappa, Allen L. Leverett, and Pension Fund Investment Review Committee (collectively the "Defendants"). The Settlement is with the Defendants and would release all Defendants from all claims filed or that could have been filed against them in the Lawsuit. This means the claims brought in the Lawsuit cannot be refiled. This Notice contains summary information with respect to the Settlement. The terms and conditions of the Settlement are set forth in a Settlement Agreement (the "Settlement Agreement"). Capitalized terms used in this Notice but not defined in this Notice have the meanings assigned to them in the Settlement Agreement. The Settlement Agreement, and additional information with respect to the Lawsuit and the Settlement, is available at <http://www.southernERISAsettlement.com>, or from counsel for the Settlement Class ("Class Counsel") (listed at page 2 below).

The Settlement provides for payment of *Fifteen Million, U.S. Dollars* (\$15,000,000.00) into a Qualified Settlement Fund. The net amount in the Qualified Settlement Fund, after addition of earned interest and after deduction of Court-approved attorneys' fees, Settlement administration fees and expenses, and Settlement implementation expenses (the "Class Settlement Amount"), will be allocated to the Plan accounts of members of the Settlement Class, according to a plan of allocation to be approved by the Court, and which is summarized below ("Plan of Allocation").

The Court has scheduled a hearing concerning final approval of the Settlement and Class Counsel's motion for attorneys' fees and expenses. That hearing, before the Honorable Richard W. Story, is scheduled on August 14, 2007 at 9:30 a.m. in Courtroom 2105 at the Richard B. Russell Courthouse, 75 Spring Street NW, Atlanta, Georgia. If approved, the Settlement would bind you as a member of the Settlement Class. You may appear at this hearing, and/or object to the Settlement. Any objections to the Settlement or the motion for attorneys' fees and expenses must be served in writing on the Court, and the Parties' counsel. More information about the hearing and how to object is explained on pages 6-7 of this Notice.

**PLEASE READ THIS NOTICE CAREFULLY AND COMPLETELY. IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS TO WHOM THIS NOTICE IS ADDRESSED, THE SETTLEMENT WILL AFFECT YOUR RIGHTS. YOU ARE NOT BEING SUED IN THIS MATTER. YOU NEED NOT APPEAR IN COURT, AND YOU NEED NOT HIRE AN ATTORNEY IN THIS CASE. IF YOU ARE IN FAVOR OF THE SETTLEMENT, YOU NEED NOT DO ANYTHING. IF YOU DISAPPROVE, YOU MAY OBJECT TO THE SETTLEMENT PURSUANT TO THE PROCEDURES DESCRIBED BELOW.**

**Questions? Please Call 1-888-805-6437 or visit [www.southernERISAsettlement.com](http://www.southernERISAsettlement.com). Do not call Southern Company, HR Direct, Merrill Lynch, Hewitt Associates, or the Court, as they cannot answer your questions.**

**Your Legal Rights and Options in this Settlement:**

<p><b>You Can Do Nothing.</b></p> <p>No Action is Necessary to Receive Payment for Your Share (if any) of the Class Settlement Amount.</p>	<ul style="list-style-type: none"> <li>• If the Settlement is approved by the Court and you are a Settlement Class member, you will not need to do anything to receive a payment of your share (if any) of the Class Settlement Amount (“Settlement Proceeds”), and the payment will be directed into a Plan account as described below.</li> <li>• If you are a Settlement Class member and a current Plan participant, your Settlement Proceeds will be deposited into your Plan account based on the investment direction you have selected for your contributions. If there is no investment direction on file for you, your Settlement Proceeds will be directed into a default investment option, pending receipt of investment direction from you.</li> <li>• If you are a Settlement Class member and <b>not</b> a current Plan participant, your Settlement Proceeds will be deposited into a Plan account to be established for you based on your last investment direction on file for you. If there is no investment direction on file for you, your Settlement Proceeds will be directed into a default investment option, pending receipt of investment direction from you. If your Settlement Proceeds do not exceed \$5000, they will be distributed to you in accordance with Plan rules.</li> </ul>
<p><b>You Can Object (by July 31, 2007).</b></p>	<ul style="list-style-type: none"> <li>• You can write to the Court if you don’t like the Settlement.</li> </ul>
<p><b>You Can Go To A Hearing (on August 14, 2007).</b></p>	<ul style="list-style-type: none"> <li>• You can ask to speak in Court about the fairness of the Settlement.</li> </ul>

These rights and options - **and the deadlines to exercise them** - are explained in this notice. The Court in charge of this case still has to decide whether to approve the Settlement. Settlement Proceeds will be paid only if the Court approves the Settlement and that approval is upheld in the event of any appeals.

Further information regarding the Lawsuit and this Notice may be obtained by contacting:

**Class Counsel:**

KELLER ROHRBACK L.L.P.  
 Lynn Lincoln Sarko  
 Derek W. Loeser  
 1201 Third Avenue, Suite 3200  
 Seattle, Washington 98101-3052  
 Telephone: (206) 224-7552  
 Facsimile: (206) 623-3384

SCHIFFRIN BARROWAY TOPAZ & KESSLER, LLP  
 Joseph H. Meltzer  
 Gerald D. Wells, III  
 280 King of Prussia Road  
 Radnor, PA 19087  
 Telephone: (610) 667-7706  
 Facsimile: (610) 667-7056

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**SUMMARY OF CASE**

As described in more detail below and in the Plaintiff's Second Amended Complaint filed in the Lawsuit, this Lawsuit concerns allegations that Defendants breached fiduciary duties they purportedly owed to participants and beneficiaries in the Plan during the Class Period. The Defendants deny the allegations. Copies of Plaintiff's Second Amended Complaint and other documents filed in the Lawsuit are available at <http://www.southernERISAsettlement.com>.

**SUMMARY OF SETTLEMENT**

The Southern Defendants will cause the Qualified Settlement Fund to be funded, consisting of *Fifteen Million U.S. Dollars* (\$15,000,000.00) in cash. The net amount in the Qualified Settlement Fund, after addition of interest earned and after deduction of Court-approved attorneys' fees, Settlement administration fees and expenses, and Settlement implementation expenses, also referred to as the Class Settlement Amount, will be paid to the Plan and allocated among Settlement Class members according to a Plan of Allocation to be approved by the Court.

**STATEMENT OF POTENTIAL OUTCOME OF THE LAWSUIT**

Class Counsel believe that the claims against Defendants are well-grounded in law and fact, and that breaches of fiduciary duty under ERISA occurred in this case. However, as with any litigated case, the Settlement Class would face an uncertain outcome if the Lawsuit were to continue against the Defendants. Continued litigation of the Lawsuit could result in a judgment or verdict greater or lesser than the recovery under the Settlement Agreement, or in no recovery at all. In evaluating the Settlement, Class Counsel have considered the range of possible recoveries if the claims against the Defendants were adjudicated rather than settled.

Class Counsel believe that the Settlement reflects a reasonable compromise in light of the range of possible outcomes. Class Counsel believe that the Settlement is preferable rather than continuing to litigate, and is in the best interests of the Class because the Settlement provides certainty to the Settlement Class with respect to the amount of recovery and should result in the recovery actually being realized substantially prior to the time it would be were the case successfully litigated to a conclusion.

Throughout this Lawsuit, Defendants have denied and continue to deny the claims and contentions alleged by Plaintiff. Nevertheless, Defendants, in consultation with counsel and with the encouragement of their insurers, have concluded that it is desirable that the Lawsuit be fully and finally settled on the terms and conditions set forth in the Settlement Agreement, thereby avoiding the risks, burden and expense associated with the Lawsuit. Nothing about the Settlement shall be deemed to constitute any finding or concession of fault, liability, or wrongdoing by the Defendants, or give rise to any inference or admission of such fault, liability, or wrongdoing. In the Settlement Agreement, the Settlement Class and Plaintiffs agree that nothing in it, including the requirement to establish and fund the Qualified Settlement Fund, shall be deemed to constitute any finding or concession of fault, liability, or wrongdoing by the Defendants, or give rise to any inference or admission of such fault, liability, or wrongdoing.

**STATEMENT OF ATTORNEYS' FEES AND EXPENSES SOUGHT IN THE LAWSUIT**

Class Counsel in the Lawsuit will submit a fee petition to the Court in which they will ask the Court to award them attorneys' fees not in excess of 30% of the Qualified Settlement Fund, plus reimbursement of certain costs and expenses identified in the Settlement Agreement. These attorneys' fees and expenses awarded by the Court, and payment of certain administrative fees and expenses related to implementing the Settlement, including the Plan of Allocation, will be deducted from the Qualified Settlement Fund (which will include any earned interest) in arriving at the Class Settlement Amount.

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## **WHAT WILL THE PLAINTIFF GET?**

The Plaintiff will share in the allocation of the Class Settlement Amount paid to the Plan on the same basis and to the same extent as all other members of the Settlement Class. In addition, the Court, in its discretion, may award the Plaintiff a Case Contribution Award of up to five thousand dollars (\$5,000.00). The determination of whether to grant a Case Contribution Award, and for what amount, will be made by the Court at the Fairness Hearing described below.

## **BASIC INFORMATION**

### **Why did I get this Notice package?**

You or someone in your family are or may have been a participant or beneficiary of the Plan during the Class Period and thus may be a member of the Settlement Class. The Court caused this Notice to be sent to you because, if you are a member of the Settlement Class, you have a right to know about the Settlement and all of your options before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after any objections and appeals are resolved, the Class Settlement Amount will be paid to the Plan and then allocated among Settlement Class members according to the Court-approved Plan of Allocation. This Notice package describes the Lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of this Lawsuit is the United States District Court for the Northern District of Georgia. The individual who sued is called "Plaintiff," and the people/entities sued are called "Defendants." The Lawsuit that is the subject of this Notice and the Settlement is known as *Spivey v. Southern Company et al.*, Case No. 1:04-CV-1912-RSW.

### **What is the Lawsuit about?**

During the Class Period, the accounts of certain participants in the Plan were invested, in part, in the Mirant Stock Fund, which held shares of Mirant Stock. The Plaintiff claims that the Defendants were fiduciaries of the Plan and violated fiduciary duties under ERISA, which were allegedly owed to participants and beneficiaries of the Plan. The Plaintiff alleges that the Defendants failed to act appropriately because the Plan's holdings of Mirant Stock in the Mirant Stock Fund purportedly became an imprudent investment. The Defendants deny these allegations. In the Second Amended Complaint, Plaintiff asserted causes of action for the losses suffered by the Plan as the result of the alleged breaches of fiduciary duty by the Defendants. The Defendants filed Answers denying the material allegations of the Second Amended Complaint, and denying any liability to Plaintiff or to the Plan.

### **Why is this case a class action?**

In a class action, one or more plaintiffs, called "Class Representatives," sue on behalf of a large number of people who are alleged to have similar claims. All of the individuals on whose behalf the Class Representatives are suing are "Class Members." One court resolves the issues for all Class Members. In its order setting the Fairness Hearing, the Court preliminarily certified the Settlement Class in the Lawsuit.

The Class Representative in the Lawsuit is Mark T. Spivey, referred to in this Notice as the "Plaintiff," who was a participant in the Plan during the Class Period.

### **Why is there a settlement?**

Plaintiff and Defendants have agreed to a Settlement to avoid the cost, risk, time, and disruption of continued discovery and a trial. Class Counsel believe that the Settlement is the best option for the Settlement Class members, for the reasons described above in the section entitled "Statement of Potential Outcome of the Lawsuit." The Employee Savings Plan Committee has retained an independent entity, known as an independent fiduciary (the "Independent Fiduciary"), to evaluate the fairness of the Settlement and Settlement Agreement to the Plan and its participants.

## **WHO PARTICIPATES IN THE SETTLEMENT**

To see if any of the proceeds of this Settlement will be allocated to your Plan account, you first must determine whether you are a member of the Settlement Class.

### **How do I know whether I am part of the Settlement?**

The Court has conditionally certified the following Settlement Class:

All persons who were participants in or beneficiaries of the Southern Company Employee Savings Plan at any time between April 2, 2001 and July 26, 2006 and whose Plan accounts held Mirant Stock in the Plan's Mirant Stock Fund, excluding the Defendants and their Immediate Family, beneficiaries, alternate payees, Representatives, or Successors-in-Interest in connection with their accounts in the Plan.

**Questions? Please Call 1-888-805-6437 or visit [www.southernERISAsettlement.com](http://www.southernERISAsettlement.com). Do not call Southern Company, HR Direct, Merrill Lynch, Hewitt Associates, or the Court, as they cannot answer your questions.**

Are there exceptions to being included?

All Plan participants described above are members of the Settlement Class (“Settlement Class members”), with the exception of the individual Defendants named in the Lawsuit and their Immediate Family, beneficiaries, alternate payees, Representatives, or Successors-in-Interest in connection with their accounts in the Plan.

**THE SETTLEMENT BENEFITS - WHAT YOU GET**

What does the Settlement provide?

A Qualified Settlement Fund consisting of *Fifteen Million, U.S. Dollars* (\$15,000,000.00) in cash has been established. The net amount in the Qualified Settlement Fund, after the addition of earned interest and the deduction of Court-approved attorneys’ fees, Settlement administration fees and expenses, and Settlement implementation expenses (referred to as the Class Settlement Amount), will be allocated to members of the Settlement Class according to the Plan of Allocation to be approved by the Court, and generally described below.

How much will my settlement payment be?

Plaintiff has submitted a proposed Plan of Allocation to the Court. If this Plan of Allocation is approved, your share of the Class Settlement Amount will depend on your investment in the Mirant Stock Fund in your Plan account during the Class Period. Each Settlement Class member’s share of the Class Settlement Amount will be determined according to the following formula:

A. Your Net Loss Is Calculated As Follows:

Your “Net Loss” under the Plan of Allocation is (1) the dollar value of your holdings in the Mirant Stock Fund on April 2, 2001 (the start of the Class Period), (2) minus the dollar value of proceeds from any sale(s) that you made and/or the dollar value of any shares that you withdrew from your holdings in the Mirant Stock Fund during the Class Period, (3) minus (-) the dollar value of your holdings in the Mirant Stock Fund effective as of June 30, 2006 (based on the proceeds from the liquidation of the Mirant Stock Fund posted to your account on July 26, 2006).

B. Your Net Loss Percentage Is Calculated As Follows:

Your “Net Loss Percentage” will be determined by dividing your Net Loss by the total Net Loss of all Settlement Class members.

C. Your Share of the Class Settlement Amount Is Calculated As Follows:

Your share of the Class Settlement Amount (your “Settlement Proceeds”) will be your Net Loss Percentage multiplied by the Class Settlement Amount; provided that a share of the Class Settlement Amount less than \$10 will be deemed to be zero. Thus, if your share of the Class Settlement Amount is calculated to be less than \$10 under this formula, your share will be deemed zero, no payment will be sent to you, and the amount of your calculated share of the Class Settlement Amount (less than \$10) will be restored to the Class Settlement Amount for distribution to other Settlement Class members whose share of the Class Settlement Amount was initially calculated to be \$10 or greater.

The Court will be asked to approve a more detailed statement of the Plan of Allocation, a copy of which is available along with other settlement documents at [www.southernERISAsettlement.com](http://www.southernERISAsettlement.com). The terms of the Plan of Allocation approved by the Court will control as to the final determination of your share of the Class Settlement Amount and the amount of your Settlement Proceeds.

**You are not responsible for calculating the amount you may be entitled to receive under the Plan of Allocation.** This calculation will be done as part of the implementation of the Settlement. **Do not worry if you do not have records concerning your Plan account.** If you are entitled to a share of the Class Settlement Amount, you will receive a statement showing the amount of your share. However, your Settlement Proceeds may be less than your actual losses. If you have questions regarding the Settlement or the Plan of Allocation, please contact the counsel listed on page 2 of this notice above.

How can I get any settlement payment that I am due?

You do not need to file a claim for recovery.

- If you are a Settlement Class member and a current Plan participant, your Settlement Proceeds will be deposited into your Plan account based on the investment direction you have selected for your contributions. If there is no investment direction on file for you, your Settlement Proceeds will be directed into a default investment option, pending receipt of investment direction from you.
- If you are a Settlement Class member and **not** a current Plan participant, your Settlement Proceeds will be deposited into a Plan account to be established for you based on your last investment direction on file for you. If there is no investment direction on file for you, your Settlement Proceeds will be directed into a default investment option, pending receipt of investment direction from you. If your Settlement proceeds do not exceed \$5000, they will be distributed to you in accordance with Plan rules.

**Questions? Please Call 1-888-805-6437 or visit [www.southernERISAsettlement.com](http://www.southernERISAsettlement.com). Do not call Southern Company, HR Direct, Merrill Lynch, Hewitt Associates, or the Court, as they cannot answer your questions.**

When would I get my payment?

The Class Settlement Amount will be paid to the Plan and allocated to the accounts of Settlement Class members pursuant to the Plan of Allocation, as soon as possible after final approval has been obtained for the Settlement (which includes exhaustion of any appeals). Any appeal of the final approval may take a year or more. Please be patient.

**There Will Be No Payments If The Settlement Is Terminated**

Defendants may withdraw from and terminate the Settlement Agreement on several grounds, including: (1) if the Court does not approve the Settlement or materially modifies it ; (2) if the Independent Fiduciary hired to evaluate the Settlement does not approve it; or (3) if the Court’s order approving the Settlement is reversed or modified on appeal. The Settlement Agreement describes other conditions in which Defendants may withdraw from the Settlement. In the event any of these conditions occur, you will not receive Settlement proceeds, and the Lawsuit against Defendants will resume.

**YOU CANNOT EXCLUDE YOURSELF FROM THE SETTLEMENT**

Can I exclude myself from the Settlement?

No. In some class actions, class members have the opportunity to exclude themselves from a settlement. This is sometimes referred to as “opting out” of the settlement. **Because of the way ERISA operates, you do not have the right to exclude yourself from the Settlement in this case.** For purposes of the Settlement, the Settlement Class was preliminarily certified under Federal Rule of Civil Procedure 23(b)(1) as a “non-opt-out” class. Breach of fiduciary duty claims must be brought by participants on behalf of the Plan, and any judgment or resolution necessarily applies to all Plan participants and beneficiaries. As such, it is not possible for any participants or beneficiaries to exclude themselves from the benefits of the Settlement. **Therefore, you will be bound by any judgments or orders that are entered in this Lawsuit, and, if the Settlement is approved, you will be deemed to have released the Defendants from any and all claims that were or could have been asserted in this case on your behalf or on behalf of the Plan or otherwise included in the release in the Settlement, other than your right to obtain the relief provided to you, if any, by the Settlement, including your Settlement Proceeds, if any.**

Although you cannot opt out of the Settlement, you can object to the Settlement and ask the Court not to approve the Settlement. See question “How do I tell the Court that I don’t like the Settlement?” below.

**THE LAWYERS REPRESENTING YOU**

Do I have a lawyer in the case?

The Court has appointed Keller Rohrback L.L.P. and Schiffrin Barroway Topaz & Kessler, LLP as Class Counsel for the Settlement Class. If you want to be represented by your own lawyer, you may hire one at your own expense.

How will the lawyers be paid?

Class Counsel, who have pursued this Lawsuit on a contingent basis, will file a motion for the award of attorneys’ fees and expenses. This motion will be considered at the Fairness Hearing. As previously described, Class Counsel will seek attorneys’ fees not in excess of 30% of the Qualified Settlement Fund, plus reimbursement of costs and expenses. These fees and expenses awarded by the Court will be deducted from the Qualified Settlement Fund.

**OBJECTING TO THE SETTLEMENT OR THE ATTORNEYS’ FEES**

You can tell the Court that you do not agree with the Settlement or some part of it.

How do I tell the Court that I don’t like the Settlement?

If you are a Settlement Class member, you can object to the Settlement if you do not like any part of it. You can give reasons why you think the Court should not approve the Settlement. The Court will consider your views. To object, you must send a letter or other written filing saying that you object to the Settlement. Be sure to include the following case caption “*Spivey v. Southern Co. et al.*, Case No. 1:04-CV-1912-RWS.” In addition, your objection must include your name, address, telephone number, signature, and the reasons you object to the Settlement. **Mail the objection to the four different places below postmarked no later than July 31, 2007. You must mail your objection by this date. If you fail to do so, the Court will not consider your objections.** If you plan to speak at the Fairness Hearing, you must send a Notice of Intention to Appear along with your objection, as described below.

Questions? Please Call 1-888-805-6437 or visit [www.southernERISAsettlement.com](http://www.southernERISAsettlement.com). Do not call Southern Company, HR Direct, Merrill Lynch, Hewitt Associates, or the Court, as they cannot answer your questions.

Court	Class Counsel		Defense Counsel
Clerk of the Court Northern District of Georgia Richard B. Russell Federal Building and Courthouse 75 Spring Street, SW Atlanta, Georgia 30303-3361	Keller Rohrback L.L.P. Lynn Lincoln Sarko Derek W. Loeser 1201 Third Avenue, Suite 3200 Seattle, Washington 98101-3052	Schiffirin Barroway Topaz & Kessler, LLP Joseph H. Melzter Gerald D. Wells, III 280 King of Prussia Road Radnor, PA 19087	Jones Day G. Lee Garrett, Jr. David M. Monde 1420 Peachtree Street Suite 800 Atlanta, GA 30309

**Again, all papers submitted must include “Spivey v. Southern Co. et al., Case No. 1:04-CV-1912-RWS.” on the front page.**

### **THE COURT’S FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but it is not necessary.

**When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Fairness Hearing to decide whether to approve the Settlement as fair, reasonable, and adequate. You may attend the Fairness Hearing, and you may ask to speak, but you do not have to attend. The Court will hold the Fairness Hearing at 9:30 a.m. on August 14, 2007 in Courtroom 2105 at the Richard B. Russell Federal Courthouse, 75 Spring Street NW, Atlanta, Georgia. At that hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. After the Fairness Hearing, the Court will decide whether to approve the Settlement. The Court will also rule on the motions for attorneys’ fees and expenses.

**Do I have to come to the Fairness Hearing?**

No, but you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to voice your objection in person. As long as you mail your written objection on time, the Court will consider it when determining whether to approve the Settlement as fair, reasonable, and adequate. You also may pay your own lawyer to attend the Fairness Hearing, but attendance is not necessary.

**May I speak at the Fairness Hearing?**

If you are a Settlement Class member, you may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter or other paper called a “Notice of Intention to Appear at Fairness Hearing in “Spivey v. Southern Co. et al., Case No. 1:04-CV-1912-RWS.” Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be postmarked no later than July 31, 2007 and be sent to the Clerk of the Court, Class Counsel, and Defendants’ counsel at the addresses listed above.

### **IF YOU DO NOTHING**

**What happens if I do nothing at all?**

If you do nothing and you are a Settlement Class member, you will participate in the Settlement of the Lawsuit as described above in this Notice if the Settlement is approved.

### **GETTING MORE INFORMATION**

**Are there more details about the Settlement?**

This Notice summarizes the proposed Settlement. The complete Settlement is set forth in the Settlement Agreement. You may obtain a copy of the Settlement Agreement by making a written request to the counsel listed above. Copies may also be obtained at <http://www.southernERISAsettlement.com>.

**How do I get more information?**

You can contact Class Counsel (see counsel listed above), or visit the website at <http://www.southernERISAsettlement.com> for more information regarding the Settlement. In addition, Class Counsel have established a toll-free phone number to receive your comments and questions: 1-888-805-6437, and they may be contacted via e-mail at [southernerisa@kellerrohrback.com](mailto:southernerisa@kellerrohrback.com) and [southernerisasettlement@sbtclaw.com](mailto:southernerisasettlement@sbtclaw.com).

**Questions? Please Call 1-888-805-6437 or visit [www.southernERISAsettlement.com](http://www.southernERISAsettlement.com). Do not call Southern Company, HR Direct, Merrill Lynch, Hewitt Associates, or the Court, as they cannot answer your questions.**

Southern ERISA Settlement  
Settlement Administrator  
PO Box 2995  
Portland, OR 97208-2995