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21 DST OUTPUT OF CALIFORNIA, INC.

22 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
23 IN AND FOR THE COUNTY OF EL DORADO

24 GLEN GRAHAM, et al.,

25 Plaintiff,

26 v.

27 DST OUTPUT OF CALIFORNIA, INC., a  
28 California corporation; et al.,

Defendants.

Case No. PC20080109

**DEFENDANT DST OUTPUT OF  
CALIFORNIA, INC.'S CASE  
MANAGEMENT CONFERENCE  
STATEMENT**

**Date: August 6, 2008**

**Time: 1:30 p.m.**

**Dept.: 6**

Complaint Filed: October 12, 2007

Trial Date: None

**I. INTRODUCTION**

Plaintiff Glen Graham brought this action as a putative class action seeking recovery for unpaid overtime and other wage and hour claims. Plaintiff is also pursuing penalties under the Private Attorney General Act of 2004 ("PAGA"). Plaintiff and the other members of the alleged

1 class were employed by DST Output of California, Inc. as computer programmers or software  
2 engineers. Defendants believe that the members of the putative class were properly classified as  
3 exempt employees under the administration exemption contained in California Wage Order 4-  
4 2001 and that under any circumstances the case is not proper for class action certification.

## 5 **II. RELATED CASE**

6 This case is similar to *Muir v. DST Output of California, Inc. and DST Output West,*  
7 *LLC*, Case number PC20080164. The same counsel are involved in both cases, and agree that  
8 these cases should be consolidated for case management purposes only.

## 9 **III. DISCOVERY**

10 The parties have exchanged an initial round of written discovery. No depositions have  
11 been taken to date.

12 This case will likely involve a significant amount of electronic discovery, as well as  
13 numerous depositions. The main issue is whether Plaintiff was properly classified as an exempt  
14 employee. This will require an examination of the duties performed by Plaintiff and other  
15 members of the putative class, and an examination of the hours worked and meal and rest breaks  
16 taken by those individuals. Plaintiff will need to be deposed, as will members of the putative  
17 class as this matter progresses. DST assumes that Plaintiff will depose several employees of  
18 DST.

19 Plaintiffs will request or have requested access to various records, databases, and  
20 computer codes in various formats, as they attempt to establish their claims. Plaintiff has also  
21 indicated that he believes he will need significant discovery from DST's customers. DST  
22 anticipates opposing these efforts on a variety of bases. The parties are in the process of  
23 agreeing upon a protective order and a protocol for defendant's recovery of certain electronic  
24 information that plaintiff still has in his possession from his employment with defendant.

25 The parties also are in discussions regarding the possibility of an agreed upon schedule  
26 for production of certain records that may provide an efficient process for early assessment of  
27 the case.

## 28 **IV. MOTIONS**

1 There are no motions pending in this case. Plaintiff has filed a motion to compel  
2 production of contact information for members of the putative class in the *Muir* case. The  
3 motion was noticed for August 21, 2008.

4 DST anticipates filing a motion for summary judgment or, in the alternative, summary  
5 adjudication, as to the individual plaintiffs in both this case and the *Muir* matter before class  
6 certification is determined. Despite Plaintiff's suggestion, a motion for summary judgment will  
7 not necessarily preclude a later motion for summary judgment following class certification.  
8 Although any later motion would, of course, be subject to the limitations of Code of Civil  
9 Procedure section 437c(f)(2), there may well be a situation in which DST could lose its motion  
10 as to the individual plaintiff, but have different grounds to pursue a separate motion against the  
11 class, if certified. Code Civ. Proc. § 437c(f)(2) ("a party may not move for summary judgment  
12 based on issues asserted in a prior motion for summary adjudication and denied by the court,  
13 unless that party establishes to the satisfaction of the court, newly discovered facts or  
14 circumstances or change of law supporting the issues reasserted in the summary judgment  
15 motion.").

16 **V. PROPOSED SCHEDULE**

17 The following dates are proposed as a framework for this case and the *Muir* case.  
18 Plaintiff's counsel has proposed his own dates and, which the parties are still meeting and  
19 conferring regarding the matter, the dates proposed below extend by dates proposed by plaintiff  
20 for 90 days. It is, of course, possible that the case could move more quickly than these dates,  
21 but in view of the complexity of the case, defendant believes the extra 90 days are appropriate.  
22  
23  
24

<b>Events</b>	<b>Date</b>
Complete first round of e-discovery; complete depositions of named plaintiffs	April 30, 2009
Complete depositions of persons most knowledgeable from DST; complete	June 30, 2009

1	depositions of some class members; complete	
2	depositions of DST's customers (as	
3	appropriate)	
4	Motion for summary judgment/ summary	August 1, 2009
5	adjudication noticed for no later than this	
6	date	
7	Class certification motion noticed for no later	October 31, 2009
8	than this date	

7 **VI. ALTERNATIVE DISPUTE RESOLUTION**

8 The parties believe that alternative dispute resolution is premature at this time. The  
9 parties believe that meaningful ADR will only be possible after additional discovery is  
10 conducted, and any motion(s) for summary judgment or summary adjudication have been heard.

11  
12 Dated: July 31, 2008

FISHER & PHILLIPS LLP

13  
14 By: \_\_\_\_\_

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Attorneys for Defendant  
DST OUTPUT OF CALIFORNIA, INC.