

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA**

**Andrews v. Ly**

Andrews · No. 1:24-cv-00602-KES-EPG (PC) · Decided March 27, 2025

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**SUMMARY**

The court authorizes Plaintiff Donna Lee Andrews to pursue limited early discovery through a subpoena duces tecum to obtain current address and contact information for Defendant Kelly Vang Ly. The order directs the Clerk to provide subpoena and U.S. Marshals Service forms, sets deadlines for returning the forms and serving Defendant Ly, and warns that failure to serve may result in dismissal.

**OPINION**

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA  
9 DONNA LEE ANDREWS, Case No. 1:24-cv-00602-KES-EPG (PC) 10 Plaintiff, ORDER  
AUTHORIZING ISSUANCE OF 11 SUBPOENA DUCES TECUM AND SETTING v.  
DEADLINES 12 KELLY VANG LY, AND 13 Defendant ORDER DIRECTING CLERK 14 TO  
SEND PLAINTIFF A COPY OF FORM AO 88B AND FORM USM-285 15 Plaintiff Donna Lee  
Andrews is a state prisoner proceeding pro se and in forma pauperis in 16 this civil rights action  
filed pursuant to 42 U.S.C. § 1983.

17 Plaintiff Donna Andrews is a state prisoner proceeding pro se and in forma pauperis in this 18  
civil rights action filed pursuant to 42 U.S.C. § 1983. In her complaint, Plaintiff alleged that her  
19 leg was injured after defendant failed to provide her with a proper wheelchair. (ECF No. 12).  
20 Following screening, the Court found Plaintiff’s claim cognizable (ECF No. 13 at 1) and  
ordered 21 service of the complaint under the Court’s E-Service pilot program for civil rights  
cases by 22 providing copies of relevant documents electronically to the California Department of  
Corrections 23 and Rehabilitation (CDCR) and the California Attorney General’s Office (ECF No.  
14).

24 In response, the CDCR timely filed with the Court the “CDCR Notice of Intent to Not 25  
Waive Service.” (ECF No. 16). In the Notice, CDCR has identified the defendant as “Kelly Vang  
26 Ly” but indicated that “Defendant does not authorize CDCR to accept service.” (Id.) 27 U.S.  
Marshalls were not able to serve the defendant because CDCR also refused to provide 28  
information regarding defendant’s current address.

1 To proceed against Defendant Ly, Plaintiff must identify and serve this Defendant. Plaintiff 2  
will have an opportunity to seek information to learn Defendant’s Ly current address and contact 3  
information. However, it remains Plaintiff’s responsibility to serve Defendant Ly. 4 Although

Federal Rule of Civil Procedure 26(d)(1) generally provides that “[a] party may not seek discovery from any source before the parties have conferred as required by Rule 26(f),” a party may do so “when authorized... by court order.” Here, the Court finds good cause to permit Plaintiff to issue a subpoena duces tecum for the limited purpose of discovery current address and contact information for Defendant Kelly Vang Ly so that this case may proceed.

See *Malibu 8 Media, LLC v. Doe*, 319 F.R.D. 299, 305 (E.D. Cal. 2016) (noting that a court may permit, for good cause, early discovery to learn the identities of Doe defendants). Accordingly, the Court will authorize the issuance of a subpoena duces tecum to seek documents from the California Department of Corrections and Rehabilitation.

The Clerk of Court is directed to send Plaintiff one copy of form AO 88B and one copy of form USM-285, to be completed by Plaintiff. When completing these subpoena forms, Plaintiff should only request documents that may assist her in identifying current address and other relevant contact information for Defendant Ly. On the AO 88B form, in the section that begins with “To: (Name of person to whom this subpoena is directed),” Plaintiff should identify the person or entity she is seeking the documents from.

Because Plaintiff is seeking information about an employee at Central California Women’s Facility, their employer, CCWF, appears to be the logical recipient of the subpoena. In the blank space between the lines starting with “production” and “place,” Plaintiff should identify the documents she is seeking that would assist her in identifying and serving the Defendant Ly, such as any documents related to current home or mailing address of Kelly Vang Ly or other relevant contact information.

The “place” and date and “time of the production” boxes refer to the date on which the documents should be produced to the Plaintiff and the address of where the documents should be sent, such as the place of her incarceration or her residence. Plaintiff should not fill out Proof of Service section of the AO 88B form, it will be completed by the U.S. Marshalls after they serve the subpoena.

Similarly, Plaintiff should not fill out the section of the USM-285 form that is marked “Space Below for Use of U.S. Marshal Only — Do Not Write Below this Line.” The “Serve At” Section on the USM-285 form should match “To:” section on the AO 88B form, providing the name and address of the person or entity to whom subpoena is directed, such as CCWF.

Once Plaintiff has completed and returned forms AO 88B and USM-285, the Court will review the documents and, if they are correctly completed, the Court will direct the United States Marshals Service to serve the subpoena.

The Court notes that it may limit Plaintiff’s request for production of documents. Plaintiff has 120 days from the date of this order, until July 28, 2025, to serve Defendant Ly with summons and

complaint. Failure to file a motion to substitute by this deadline may result in the dismissal of this action. 2 Accordingly, IT IS ORDERED that: 13 1.

The Clerk of Court is directed to send Plaintiff one copy of form AO 88B and one copy of form USM-285; 15 2. Plaintiff has 30 days from the date of service of this order to complete and return 16 forms AO 88B and USM-285; and 17 3. Plaintiff has 120 days from the date of this order, until July 28, 2025, to serve 18 Defendant Ly with summons and complaint. Failure to serve Defendant Ly by 19 this deadline may result in the dismissal of this action.

20 > IT IS SO ORDERED. 22 | Dated: \_March 27, 2025 [see ey 3 UNITED STATES MAGISTRATE JUDGE 24 25 26 ‘Tf after being served with the subpoena, the California Department of Corrections and Rehabilitation fails 27 | to respond or objects to providing documents, Plaintiff may file a motion to compel.

The motion must be 8 filed with the Court and served on the responding person or entity.