

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

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.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 27, 2025
DOCKET	1:24-cv-00602-KES-EPG (PC)
DISPOSITION	other
PROCEDURAL POSTURE	In a prisoner civil-rights action under 42 U.S.C. § 1983, the court authorized the unserved plaintiff to pursue limited early third-party discovery by subpoena to obtain the defendant's current address and contact information.
PRECEDENTIAL VALUE	unknown
PARTIES	Donna Lee Andrews v. Kelly Vang Ly

TOPICS

- discovery dispute
- service of process
- civil procedure
- section 1983
- prisoners rights

PRACTICE AREAS

- civil procedure
- prisoner civil rights

QUESTIONS PRESENTED

1. Whether the court should authorize discovery before the parties' Rule 26(f) conference to obtain the current address and contact information of an unserved defendant.

2. Whether the court should authorize issuance of a subpoena duces tecum to CDCR or the defendant's employer for documents needed to identify and serve the defendant.

HOLDINGS

1. A court may authorize discovery before the Rule 26(f) conference when good cause exists, and good cause supported limited early discovery here because Plaintiff needed the defendant's current address and contact information to effect service.
2. The court authorized Plaintiff to issue a subpoena duces tecum to obtain documents from CDCR or the logical employing entity that may identify Defendant Ly's current address and other relevant contact information.

KEY QUOTATIONS

“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.”” (at 2)

“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.” (at 2)

FACTUAL BACKGROUND

Donna Lee Andrews, a state prisoner proceeding pro se and in forma pauperis, alleged that Kelly Vang Ly failed to provide her with a proper wheelchair, injuring her leg. The claim was found cognizable, but service could not be completed because CDCR would not accept service or disclose Ly's current address. The court therefore permitted limited discovery from CDCR or the relevant correctional facility to obtain Ly's current address and other contact information.

PROCEDURAL HISTORY

Plaintiff filed a § 1983 complaint alleging that Defendant failed to provide her with a proper wheelchair, causing a leg injury. The court found the claim cognizable and ordered service through the court's E-Service pilot program, but the California Department of Corrections and Rehabilitation declined to waive service and refused to provide Defendant's current address. The United States Marshals Service could not complete service, so the court authorized a subpoena duces tecum to obtain information needed to identify and serve Defendant and set deadlines for completing the subpoena forms and serving the summons and complaint.

DISPOSITION

other

CASES CITED

- Malibu Media, LLC v. Doe, 319 F.R.D. 299, 305 (E.D. Cal. 2016)

