

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CHARLES RANDOLPH,)	3:13-cv-00148-RCJ-WGC
)	
Plaintiff,)	<u>ORDER</u>
)	
vs.)	
)	
THE STATE OF NEVADA, et. al.)	
)	
Defendants.)	

Before the court is Plaintiff’s Motion for Issuance of Subpoena Duces Tecum.
(Doc. # 60.)

Plaintiff seeks the issuance of two subpoenas so that he may obtain documents he contends are relevant to his claims to: (1) Debra Lambe, Program Manager, Century Link; (2) Inmate Calling Solutions. (Doc. # 60 at 2.)

Rule 45(a)(3) provides that the “clerk must issue a subpoena, signed but otherwise blank, to a party who requests it. That party must complete it before service.” Rule 45 goes on to require that “[i]f the subpoena commands the production of documents...then before it is served on the person to whom it is directed, a notice and a copy of the subpoena must be served on each party.” Fed. R. Civ. P. 45(a)(4). “Any person who is at least 18 years old and not a party may serve a subpoena.” Fed. R. Civ. P. 45(b)(1). “Serving a subpoena requires delivering a copy to the named person and, if the subpoena requires that person’s attendance, tendering the fees for 1 day’s attendance and the mileage allowed by law...” Fed. R. Civ. P. 45(b)(1).

As the court previously advised Plaintiff, while the personal service requirement is not explicit in Rule 45, the majority of courts to consider the issue, including the Ninth Circuit in

1 an unpublished decision, have held that personal service of a subpoena duces tecum is
2 required. *See Chima v. U.S. Department of Defense*, 23 Fed.Appx. 721, 2001 WL 1480640, at
3 *2 (9th Cir. Dec. 14, 2001); *see also Newell v. County of San Diego*, 2013 WL 4774767, at *2-3
4 (S.D. Cal. Sept. 5, 2013); *Prescott v. County of Stanislaus*, 2012 WL 10617, at *3 (E.D. Cal. Jan.
5 3, 2012).

6 Plaintiff's motion for the issuance of two subpoenas is (Doc. # 60) is **GRANTED**. The
7 Clerk is directed to **ISSUE** two blank subpoenas to Plaintiff. Plaintiff is then responsible for
8 filling out the subpoenas and properly serving them in accordance with Rule 45.

9 IT IS SO ORDERED.

10 DATED: February 27, 2014.

11 

12

WILLIAM G. COBB
13 UNITED STATES MAGISTRATE JUDGE
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28