UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

STRIKE 3 HOLDINGS, LLC, Plaintiff, v. JOHN DOE subscriber assigned IP address 68.12.53.15, Defendant.	)	Case No. CIV-26-3162-J

ORDER

Currently pending is Plaintiff's Motion for Leave to Serve a Third-Party Subpoena Prior to a Rule 26(f) Conference. [Doc. No. 11]. Finding good cause, the motion is GRANTED.

Plaintiff seeks permission to serve Cox Communication with a third-party subpoena, before the parties confer under Fed. R. Civ. P. 26(f), so that it may ascertain Defendant's identity. *See id.* Ordinarily, this would be impermissible; however, a court may exercise discretion to alter the timing of discovery for good cause. *See* Fed. R. Civ. P. 26(d)(1) ("A party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except . . . when authorized by . . . court order."); *see also Noxgear, LLC v. Dexscout*, No. 2:26-CV-00159, 2026 WL 1494505, at *1 (D. Utah May 28, 2026) ("A party seeking expedited discovery in advance of a Rule 26(f) conference has the burden of showing good cause for the requested departure from usual discovery procedures." (cleaned up)). The necessity of identifying a defendant is generally considered good cause. *See id.*; *see also Alo, LLC v. Alo Yoga LLC*, No. 25-CV-03243-CYC, 2025 WL 4354392, at *1 (D. Colo. Dec. 9, 2025) ("A plaintiff's inability to identify a defendant [is] one of the few instances that may warrant early discovery." (cleaned up)).

Here, Plaintiff cannot proceed with service or a Rule 26(f) conference without first identifying Defendant. Accordingly, its motion for leave to serve Cox Communication with a third-party subpoena at this stage in litigation is granted as follows:

1. Plaintiff may serve Cox Communication with a Rule 45 subpoena commanding it to provide Plaintiff with the true name and address of the Defendant to whom it assigned an IP address as set forth in the Complaint. Plaintiff shall attach a copy of this Order to the subpoena.

2. Plaintiff may also serve a Rule 45 subpoena in the same manner as above on any service provider that is identified in response to a subpoena as a provider of internet services to Defendant.

3. If the provider qualifies as a "cable operator," as defined by 47 U.S.C. § 522(5),[1] it shall send a copy of this Order to Defendant in compliance with 47 U.S.C. § 551(c)(2)(B).[2]

4. Plaintiff may only use the information disclosed in response to the Rule 45 subpoena for the purpose of protecting and enforcing Plaintiff's rights as set forth in its Complaint.

IT IS SO ORDERED this 23rd day of November, 2026.

BERNARD M. JONES, II
UNITED STATES DISTRICT JUDGE

[1] Section 522(5) states "the term 'cable operator' means any person or group of persons (A) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system[.]"

[2] Section 551(c)(2)(B) states "[a] cable operator may disclose such [personal identifying] information if the disclosure is . . . made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed."