

A G E N D A

COUNCIL ON COURT PROCEDURES

Meeting

9:30 a.m., Saturday, July 31, 1982

Judge Dale's Courtroom

Multnomah County Courthouse

Portland, Oregon

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1. Approval of minutes of June 19 meeting
 2. Election of treasurer
 3. Report of Juvenile Services Commission
 4. Report of Subcommittee on ORCP 7 D.(4)
 5. Third party practice
 6. Publication of rule changes
 7. Meeting locations
 8. NEW BUSINESS

COUNCIL ON COURT PROCEDURES

Minutes of Meeting of Subcommittee on ORCP 7

July 31, 1982

Judge Dale's Courtroom

Multnomah County Courthouse

Portland, Oregon

Present at the subcommittee meeting were: Lyle C. Velure, Robert Grant, and Douglas Haldane of the Council staff.

The subcommittee of the Council assigned to study amendments to ORCP 7 D.(4) met on July 31, 1982, immediately following the meeting of the full Council. The subcommittee discussed a draft proposal which had been submitted by Mr. Haldane. The subcommittee decided Mr. Haldane's proposal did not completely take care of the problem presented by Harp v. Loux, 54 Or App 840 (1981).

During the discussion, it was suggested that language be drafted to provide for an alternative method of service by serving the defendant's insurance carrier if known to the plaintiff, rather than the Department of Motor Vehicles. There was some concern that there might be constitutional problems with that procedure, so it was determined that an amendment should be proposed providing for a requirement that the liability insurance carrier, which the plaintiff knows afforded coverage for the incident, be served before a default could be entered.

It was determined that it would be necessary to build into ORCP 7 D.(4)(c), the default provisions, a procedure for service on the insurance carrier. It was also felt that a default entered in this situation should not be for an amount greater than the liability limits of the carrier. After further discussion, it was decided that a default for an amount beyond the liability limits should still be allowed under the present provisions of ORCP 7 D.(4)(c), which requires filing of an affidavit that defendant cannot be found residing at any of the addresses provided therein.

The subcommittee then discussed an issue raised by Judge Crookham of Multnomah County regarding problems involved with service on the Department of Motor Vehicles for non-resident defendants. It was the subcommittee's view that non-resident defendants in using the public roads and highways of the State of Oregon impliedly appoint the Department of Motor Vehicles as their agent for service within this

Minutes of Subcommittee Meeting - 7/31/82
Page 2

state. The subcommittee decided to make no changes directed toward the problem raised by Judge Crookham.

Mr. Haldane was directed to draft language amending ORCP 7 D.(4)(a) and ORCP 7 D.(4)(c), which would effectuate the subcommittee's intentions.

The July 31, 1982 meeting of the subcommittee on ORCP 7 adjourned at 12:05 p.m.

Respectfully submitted,

Douglas A. Haldane
Executive Director

DAH:gh