

SUMMONS
RULE 7

4 * * * * *

6 D Manner of service

7 * * *

8 D(2)(d) Service by mail.

9 * * *

10 D(2)(d)(ii) Calculation of time. For the purpose of
11 computing any period of time provided by these rules or by
12 statute, service by mail, except as otherwise provided, shall be
13 complete on the day the defendant, or other person authorized
14 by appointment or by law, signs a receipt for the mailing, or
15 three days after the mailing if mailed to an address within the
16 state, or seven days after the mailing if mailed to an address
17 outside [of] the state, whichever first occurs.

delete:
by

18 D(3) Particular defendants. Service may be made upon
19 specified defendants as follows:

20 D(3)(a) Individuals.

21 D(3)(a)(i) Generally. Upon an individual defendant, by
22 personal [service upon] delivery of a true copy of the
23 summons and the complaint to such defendant or [an agent]
24 other person authorized by appointment or law to receive service
25 of summons on behalf of such defendant [or, if defendant
26 personally cannot be found at defendant's dwelling house or usual
27 place of abode, then], by substituted service or by office service
28 [upon such defendant or agent]. Service may also made upon an

Insert bold
underlined comma 1

29 individual defendant to whom neither subparagraph (ii) nor (iii)
30 of this paragraph applies by mailing made in accordance with
31 paragraph (2)(d) of this section provided the defendant signs a
32 receipt for the certified, registered or express mailing, in which
33 case service shall be complete on the date on which the defendant
34 signs a receipt for the mailing.

35 * * *

36 D(4) Particular actions involving motor vehicles.

37 D(4)(a) Actions arising out of use of roads, highways,
38 [and] streets, or premises open to the public; service by
39 mail.

40 D(4)(a)(i) In any action arising out of any accident,
41 collision, or other event giving rise to liability in which a
42 motor vehicle may be involved while being operated upon the roads,
43 highways, [or] streets or premises open to the public as
44 defined by law, of this state, if the plaintiff makes at least
45 one attempt to serve [the] a defendant who operated such motor
46 vehicle, or caused it to be operated on the defendant's behalf, by
47 a method authorized by subsection (3) of this section except
48 service by mail pursuant to subparagraph (3)(a)(i) of this section
49 and, as shown by its return, did not effect service, the plaintiff
50 may then serve that defendant by mailings made in accordance with
51 paragraph (2)(d) of this section addressed to that defendant at:

52 * * *

53 D(4)(b) Notification of change of address. [Every
54 motorist or user of the roads, highways or streets of this state]

*yes,
comma
is needed*

*You're
Correct -
parentheses
should not
appear*

86 failure to state ultimate facts sufficient to constitute a claim,
87 and (9) that the pleading shows that the action has not been
88 commenced within the time limited by statute. A motion to
89 dismiss making any of these defenses shall be made before pleading
90 if a further pleading is permitted. The grounds upon which any of
91 the enumerated defenses are based shall be stated specifically and
92 with particularity in the responsive pleading or motion. No
93 defense or objection is waived by being joined with one or more
94 other defenses or objections in a responsive pleading or motion.
95 If, on a motion to dismiss asserting defenses (1) through (7), the
96 facts constituting such defenses do not appear on the face of the
97 pleading and matters outside the pleading, including affidavits
98 and other evidence, are presented to the court, all parties shall
99 be given a reasonable opportunity to present evidence and
100 affidavits, and the court may determine the existence or
101 nonexistence of the facts supporting such defense or may defer
102 such determination until further discovery or until trial on the
103 merits. *[When a motion to dismiss has been granted, judgment*
104 *shall be entered in favor of the moving party unless the court has*
105 *given leave to file an amended pleading under Rule 25.] If the*
106 court grants a motion to dismiss, the court may enter
107 judgment in favor of the moving party or grant leave to
108 file an amended complaint. If the court grants the motion
109 to dismiss on the basis of defense (3), the court may
110 enter judgment in favor of the moving party, stay the
111 proceeding, or defer entry of judgment pursuant to

Rule 54.

(This doesn't make sense. Please handle a person!)

112 subsection B(3) of ~~this~~ rule.

113 * * * * *

118 CLASS ACTIONS
119 RULE 32

121 * * * * *

122 N Attorney fees, costs, disbursements, and litigation
123 expenses.

124 N(1)(a) Attorney fees for representing a class are subject to
125 control of the court.

126 * * *

127 N(1)(e)(v) Appropriate criteria in [OR] DR 2-106 of the
128 Oregon Code of Professional Responsibility.

129 * * * * *

135 PROPOSAL NO. 1: PROPOSED
136 AMENDMENTS TO RULES 44 A/46 B.

138 PHYSICAL AND MENTAL EXAMINATION
139 OF PERSONS; REPORTS OF EXAMINATIONS
140 RULE 44

142 A Order for examination. When the mental or physical
143 condition or the blood relationship of a party, or of an agent,
144 employee, or person in the custody or under the legal control of a

Dave Barrows & Associates

707 13th St. SE #299

Salem, OR 97302

Phone: 503-378-7717

Fax: 503-588-3458

Date: June 1, 2000

To: Gilma Henthorne 1-541-346-1564

From: Amanda Rich

of pages (including cover): 4

Dear Gilma -

Here is our memorandum! I spoke to Pat right after I talked to you, and she approved it for release.

I will send a clean copy to you by mail so you will have a nice one to send to the Council. In the meantime, could you please forward this to Judge Rasmussen? Thank you for all your help! See you on June 10.

Amanda Rich



OREGON ASSOCIATION OF PROCESS SERVERS, INC.

O.A.P.S.**MEMORANDUM**

TO: Members of the Council on Court Procedures
FROM: Oregon Association of Process Servers (OAPS)
DATE: June 1, 2000
RE: Service upon an employee at a place of employment.

Background of the Problem

Process servers often handle cases where the only known place of contact for an individual is his or her place of employment. The last known address is vacant or occupied by another person. A search of DMV records produces an address that predates the last known address. The Post Office has no forwarding address on file. Every attempt to locate the individual has failed, with the exception of the workplace. However, the process server is not able to serve the individual because the employer bars private process servers from the premises.

In a case where an employer bans private service of process, the only means of effecting service is to use a uniformed sheriff. Using a sheriff doubles the cost of service and wastes time that could cost a plaintiff his or her case. It also burdens the sheriff's office with cases that do not require their expertise. There has to be a better remedy to these types of cases. OAPS is attempting to find that remedy.

Proposed Solutions

OAPS has suggested two possible solutions to this problem.

Solution #1 - The first solution allows substituted service on the personnel manager or other person with equivalent duties at an employee's place of employment. This solution is reflected in the language suggested by the subcommittee.

Solution #2 - The second solution requires employers to permit a process server to make service on employees. Florida utilizes this solution in the following law: "Employers, when contacted by an individual authorized to make service of process, shall permit the authorized individual to make service on employees in a private area designated by the employer." Section 48.031 (1)(b), Florida Statutes.

Issues

A number of issues have been raised during the Council's discussion of service at a place of employment. The following analysis addresses those concerns as they apply to the two proposed solutions.

1. Does the solution meet due process requirements?

Solution #1 – It is unlikely that the substituted service rule would pass Oregon's due process requirements. Oregon courts have repeatedly required that a third person have "regular, frequent and predictable contact with the defendant" in order for service to be adequate under ORCP 7 D(1). Hoek v. Schwabe, Williamson & Wyatt, 149 Or App 607, 617 (1997). The proposed substituted service rule allows service on the personnel manager of a place of employment. Depending on the type of business involved, the personnel manager could have a range of contact with the defendant from daily to not at all. To address this issue, the proposed rule could be amended to allow service on a direct supervisor, or some other person whose contact with the employee better meets the test.

Solution #2 – The rule requiring employers to allow servers access to employees meets due process requirements because the process server is able to achieve personal service.

2. Does the solution cause undue embarrassment to the person being served?

Either solution avoids requiring a uniformed sheriff to serve process on an individual at his or her place of employment. It has been suggested that substituted service on the employer would cause embarrassment for the employee because it allows the employer to read the employee's personal papers. Requiring the employer to make an employee available avoids this problem by allowing the process server to place the papers directly in the hands of the employee. Embarrassment is further avoided if the employer has designated a private space where employees can receive service of process.

3. Does the solution create an unreasonable burden on the employer?

The goal of both solutions is to prevent employers from standing in the way of service of process. The policy of non-cooperation held by many employers places a burden on the judicial system by wasting the time and money of litigants and the sheriff's office. These solutions seek to level the burden by requiring a minimal amount of cooperation by employers.

Solution #1 - Allowing substitute service on an employer requires the employer to receive the papers, safeguard them and deliver them to the proper employee. The amount of time this takes would vary with the type of business involved. Larger businesses might have to develop a protocol for receipt of substitute service.

Solution #2 - This solution requires an employer to allow access to the employee and designate an area where service can occur. Presumably, the employer would have to make the employee available by requesting his or her presence at the designated area. However, the employer could control the timing of the meeting to allow for the least amount of work disruption.

Either solution avoids the disruption caused by a uniformed sheriff entering the workplace during work time. Also, both solutions allow the employer to

control access to the workplace and employees ensuring safety and minimum disruption of workflow.

4. Can the Council compel a non-party to take action?

There are other situations within the scope of the rules of civil procedure where non-parties are required to take action in the interest of justice. Under ORCP 55, non-parties possessing information about a case are required to produce records and/or appear for depositions or trial testimony. In many cases, the production of documents and appearances can be time-consuming and burdensome. Our system of justice relies upon the cooperation of those non-parties for production of information. A similar cooperation should be required of non-parties to help ensure notice through service of process.

Possible Legislative Solutions

States have addressed the issue of interference with service of process numerous ways. The following three laws are examples.

1. Florida handled the problem by passing the law cited above requiring employer cooperation. "Employers, when contacted by an individual authorized to make service of process, shall permit the authorized individual to make service on employees in a private area designated by the employer." Section 48.031 (1)(b), Florida Statutes.
2. Rhode Island has the following law: "No employer within this state is permitted to refuse or obstruct the service of any court process upon an employee at the place of employment and such service shall not be grounds for dismissal of the employee. The employer may designate an area where the service may be effected." Section 9-5-35, Rhode Island General Laws.
3. Tennessee passed a more general law making it an offense to "intentionally prevent or obstruct on officer of the state or any other person known to be a civil process server in serving, or attempting to serve or execute any legal writ or process." Section 39-16-602, Tennessee Code Annotated.

Acknowledged 4-18-00

THORP
PURDY
JEWETT &
URNESS &
WILKINSON, P.C.
ATTORNEYS AT LAW

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April 10, 2000

E-MAIL ADDRESS:
lthorp@thorp-purdy.com

MARVIN O. SANDERS (1912-1977)
JACK B. LIVELY (1923-1979)
JILL E. GOLDEN (1951-1991)

Laurence E. Thorp

Professor Maury Holland
1221 University of Oregon School of Law
Eugene, OR 97403-1221

Re: Proposed Amendments to ORCP 7D.

Dear Professor Holland:

I received a copy of the mailing to the Council on Court Procedures containing the proposed amendments to ORCP 7D. Although I don't know the background of the proposal, I am very surprised to see that it includes a provision for substituted service on the personnel director at the defendant's place of employment. While that may be a good way to obtain service, I think it is extremely poor public policy. I can just see the problems it will create for employees, since the litigation probably will have nothing to do with a defendant's employment, and if it did, it could create a greater problem. It could also prove to be extremely embarrassing. For example, service could be made on the personnel director in litigation for a divorce. In all likelihood that information would become common knowledge among the defendant's fellow employees and prove to be embarrassing.

I strongly recommend that the Council not adopt the amendment permitting service on the personnel director at a defendant's place of employment.

Very truly yours,

THORP, PURDY, JEWETT,
URNESS & WILKINSON, P.C.



Laurence E. Thorp

LET:mkf

April 1, 2000

To: Chair and Members, Council on Court Procedures

Fm: Maury Holland

Re: Proposed Amendments to ORCP 7 D and F

Please add the attached to the agenda of the April 8 meeting as Attachment B thereto. It consists of amendments to ORCP 7 D and F proposed by the Rule 7 Subcommittee (Judge Rasmussen, chair; Mr. Bloom, Ms. Clarke, and Mr. Johnson, members) which seek to respond to suggestions by Mr. Bloom, Mr. Dan Reitman, and the OAPS.

The Rule 7 Subcommittee thinks it best to provide alternative versions of some of these proposed amendments. Alternative versions are shown as Alternatives A and B.

Attachment B to Agenda of April 8, 2000 Meeting

Rule 7 Subcommittee's Proposed Amendments to ORCP 7
(March 31, 2000)

{Matter to be added in **bold**; to be deleted [*italicized enclosed in square brackets*]}

1 RULE 7. SUMMONS

2 * * * *

3 D(2)(d)(ii) Calculation of Time. For the purpose of
4 computing any period of time provided by these rules or by
5 statute, service by mail, except as otherwise provided, shall be
6 complete on the day the defendant, **or other person authorized**
7 **by appointment, by law, or designated by this section to**
8 **receive service on the defendant's behalf,** signs a receipt
9 for the mailing, or three days after the mailing if mailed to an
10 address within the state, or seven days after the mailing if
11 mailed to an address outside [*of*] the state, which first occurs

12 * * * *

13 D(3)(a)(i) Generally. Upon an individual defendant, by
14 personal [*service*] **delivery of a true copy of the summons**
15 **and the complaint to** such defendant or **to** an agent authorized
16 by appointment or law to receive service of summons **on behalf of**
17 **such defendant, or**

18 Alternative A

19 [*, if defendant personally cannot be found at defendant's dwelling*
20 *house or usual place of abode, then*]

21

Alternative B

22 [*, if defendant personally cannot be found at defendant's dwelling*
23 *house or usual place of abode,*], **provided at least one attempt**
24 **is made to effect service at the defendant's dwelling**
25 **house or usual place of abode, then**

26 by substituted **or office** service[, *or by office service*] upon
27 such defendant or agent. [*Service may also be made upon an*
28 *individual defendant to whom neither subparagraph (ii) nor (iii)*
29 *of this paragraph applies by mailing made in accordance with*
30 *paragraph (2)(d) of this section provided the defendant signs a*
31 *receipt for the certified, registered or express mailing, in which*
32 *case service shall be complete on the date on which the defendant*
33 *signs a receipt for the mailing.*] **If an individual defendant**
34 **has a place of regular employment at the time of service,**
35 **service on such defendant may also be made by personal**
36 **delivery of a true copy of the summons and the complaint**
37 **to the personnel manager or other person having equivalent**
38 **duties located at such place of employment, but service by**
39 **this method shall not be complete until the latest date on**
40 **which a true copy of the summons and the complaint,**
41 **together with a statement of the date, time, and place at**
42 **which personal delivery was made, are mailed to the**
43 **defendant by**

44

Alternative A

45 **first-class mail**

46

47

Alternative B

48 first-class mail and by certified or registered mail,
49 return receipt requested, or express mail,

50 at any residence address known to the plaintiff and to the
51 place of employment. Service may also be made upon any
52 defendant as specified in this subsection, except a minor
53 as specified in paragraph (a)(ii) thereof or an
54 incapacitated person as specified in paragraph (a)(iii)
55 thereof, by mailing in accordance with paragraph (2)(d) of
56 this section provided that the defendant or other person
57 authorized by appointment, by law, or designated by this
58 section to receive service on the defendant's behalf,
59 signs a receipt for the certified, registered or express
60 mailing, in which event service shall be complete on the
61 date on which the defendant or other person so authorized
62 or designated signs a receipt for the mailing.

63 * * * *

64 D(4)(a) Actions Arising Out of the Use of Roads, Highways, [and]
65 **or Premises Open to the Public**; Service by Mail.

66 D(4)(a)(i) In any action arising out of any accident,
67 collision, or other event giving rise to liability in which a
68 motor vehicle may be involved while being operated upon the roads,
69 highways, [or] streets of, **or premises open to the public as**
70 **defined in ORS 801.400 within**, this state, if the plaintiff
71 makes at least one attempt to serve the defendant who operated
72 such motor vehicle, or caused it to be operated on the defendant's
73 behalf, by a method authorized by subsection (3) of this section
74 except service by mail pursuant to subparagraph (3)(a)(i) of this

75 section and, as shown by its return, did not effect service, the
76 plaintiff may then serve that defendant by mailings made in
77 accordance with paragraph (2)(d) of this section addressed to that
78 defendant at:

79 * * * *

80 D(4)(b) Notification of Change of Address. [*Every motorist or*
81 *user of the roads, highways, or streets of this state*] **Any**
82 **person** who, while operating a motor vehicle upon the roads,
83 highways, [or] streets of, **or premises open to the public as**
84 **defined in ORS 801.400 within,** this state, is involved in any
85 accident, collision, or other event giving rise to liability,
86 shall forthwith notify the Department of Transportation of any
87 change of such defendant's address occurring within three years
88 after such accident, collision, or event.

89 * * * *

Rule 7 Subcommittee's Proposed Amendments to ORCP 7 D
(May 10, 2000)

{Matter to be added in **bold underlined**; to be deleted
[*italicized and enclosed in square brackets*]}

1 RULE 7. SUMMONS

2 * * * *

3 D(2)(d)(ii) **Calculation of time.** For the purpose of
4 computing any period of time provided by these rules or by
5 statute, service by mail, except as otherwise provided, shall be
6 complete on the day the defendant, **or other person authorized**
7 **by appointment or by law,** signs a receipt for the mailing, or
8 three days after the mailing if mailed to an address within the
9 state, or seven days after the mailing if mailed to an address
10 outside [of] the state, whichever first occurs.

11 * * * *

12 D(3)(a)(i) **Generally.** Upon an individual defendant, by
13 personal [*service upon*] **delivery of a true copy of the**
14 **summons and the complaint to** such defendant or **to** an agent
15 authorized by appointment or law to receive service of summons **on**
16 **behalf of such defendant** [*or, if defendant personally cannot be*
17 *found at defendant's dwelling house or usual place of abode,*
18 *then*], by substituted service, **or** by office service. [*upon such*
19 *defendant or agent.*] Service may also be made upon an individual
20 defendant to whom neither subparagraph (ii) nor (iii) of this
21 paragraph applies by mailing made in accordance with paragraph
22 (2)(d) of this section provided the defendant signs a receipt for
23 the certified, registered or express mailing, in which case

24 service shall be complete on the date on which the defendant signs
25 a receipt for the mailing.

26 * * * *

27 D(4)(a) **Actions arising out of the use of roads,**
28 **highways, [and streets] or premises open to the public;**
29 **service by mail.**

30 D(4)(a)(i) In any action arising out of any accident,
31 collision, or other event giving rise to liability in which a
32 motor vehicle may be involved while being operated upon the roads,
33 highways, [or] streets of, **or premises open to the public as**
34 **defined by law within,** this state, if the plaintiff makes at
35 least one attempt to serve the defendant who operated such motor
36 vehicle, or caused it to be operated on the defendant's behalf, by
37 a method authorized by subsection (3) of this section except
38 service by mail pursuant to subparagraph (3)(a)(i) of this section
39 and, as shown by its return, did not effect service, the plaintiff
40 may then serve that defendant by mailings made in accordance with
41 paragraph (2)(d) of this section addressed to that defendant at:

42 * * * *

43 D(4)(b) **Notification of change of address.** [Every
44 *motorist or user of the roads, highways, or streets of this state*]
45 **Any person** who, while operating a motor vehicle upon the roads,
46 highways, [or] streets of, **or premises open to the public as**
47 **defined by law within,** this state, is involved in any accident,
48 collision, or other event giving rise to liability, shall
49 forthwith notify the Department of Transportation of any change of
50 such defendant's address occurring within three years after such
51 accident, collision, or event.

52
53 * * * *

COUNCIL ON COURT PROCEDURES

1221 University of Oregon
School of Law
Eugene, OR 97403-1221

Telephone: (541) 346-3990
FAX: (541) 346-1564

April 1, 2000

To: Chair and Members, Council on Court Procedures
Fm: Maury Holland
Re: Proposed Amendments to ORCP 7 D

Please add the attached to the agenda of the April 8 meeting as Attachment B thereto. It consists of amendments to ORCP 7 D proposed by the Rule 7 Subcommittee (Judge Rasmussen, chair; Mr. Bloom, Ms. Clarke, and Mr. Johnson, members) which seek to respond to suggestions by Mr. Bloom, Mr. Dan Reitman, and the OAPS.

The Rule 7 Subcommittee thinks it best to provide alternative versions of some of these proposed amendments. Alternative versions are shown as Alternatives A and B.

Enc.

cc: Notice to Public

Attachment B to Agenda of April 8, 2000 Meeting

Rule 7 Subcommittee's Proposed Amendments to ORCP 7
(March 31, 2000)

{Matter to be added in **bold and underlined**; to be deleted
[italicized enclosed in square brackets]}

1 RULE 7. SUMMONS

2 * * * *

3 D(2)(d)(ii) **Calculation of time.** For the purpose of
4 computing any period of time provided by these rules or by
5 statute, service by mail, except as otherwise provided, shall be
6 complete on the day the defendant, **or other person authorized**
7 **by appointment, by law, or designated by this section to**
8 **receive service on the defendant's behalf,** signs a receipt
9 for the mailing, or three days after the mailing if mailed to an
10 address within the state, or seven days after the mailing if
11 mailed to an address outside [of] the state, whichever first
12 occurs

13 * * * *

14 D(3)(a)(i) **Generally.** Upon an individual defendant, by
15 personal [service upon] **delivery of a true copy of the**
16 **summons and the complaint to** such defendant or **to** an agent
17 authorized by appointment or law to receive service of summons **on**
18 **behalf of such defendant,** or → notice you put "or" here

19 **Alternative A**

20 ↗ you did not include "or" here
if defendant personally cannot be found at defendant's dwelling

21 house or usual place of abode, then]

22 Alternative B

23 [, if defendant personally cannot be found at defendant's dwelling
24 house or usual place of abode,], provided at least one attempt
25 is made to effect service at the defendant's dwelling
26 house or usual place of abode, then

27 by substituted [, or by office service] or office service upon
28 such defendant or agent. (Service may also be made upon an
29 individual defendant to whom neither subparagraph (ii) nor (iii)
30 of this paragraph applies by mailing made in accordance with
31 paragraph (2)(d) of this section provided the defendant signs a
32 receipt for the certified, registered or express mailing, in which
33 case service shall be complete on the date on which the defendant
34 signs a receipt for the mailing.) If an individual defendant
35 has a place of regular employment at the time of service,
36 service on such defendant may also be made by personal
37 delivery of a true copy of the summons and the complaint
38 to the personnel manager or other person having equivalent
39 duties located at such place of employment, but service by
40 this method shall not be complete until the latest date on
41 which a true copy of the summons and the complaint,
42 together with a statement of the date, time, and place at
43 which personal delivery was made, are mailed to the
44 defendant by

See you took this out but didn't in the final version

45 Alternative A

46 first-class mail

47
48

Alternative B

49 first-class mail and by certified or registered mail,
50 return receipt requested, or express mail,

51 at any residence address known to the plaintiff and to the
52 place of employment. Service may also be made upon any
53 defendant as specified in this subsection, except a minor
54 as specified in paragraph (a)(ii) thereof or an
55 incapacitated person as specified in paragraph (a)(iii)
56 thereof, by mailing in accordance with paragraph (2)(d) of
57 this section provided that the defendant or other person
58 authorized by appointment, by law, or designated by this
59 section to receive service on the defendant's behalf,
60 signs a receipt for the certified, registered or express
61 mailing, in which event service shall be complete on the
62 date on which the defendant or other person so authorized
63 or designated signs a receipt for the mailing.

64 * * * *

65 D(4)(a) Actions arising out of the use of roads,
66 highways, [and] or premises open to the public; service by
67 mail.

68 D(4)(a)(i) In any action arising out of any accident,
69 collision, or other event giving rise to liability in which a
70 motor vehicle may be involved while being operated upon the roads,
71 highways, [or] streets of, or premises open to the public as
72 defined in ORS 801.400 within, this state, if the plaintiff
73 makes at least one attempt to serve the defendant who operated
74 such motor vehicle, or caused it to be operated on the defendant's
75 behalf, by a method authorized by subsection (3) of this section

76 except service by mail pursuant to subparagraph (3)(a)(i) of this
77 section and, as shown by its return, did not effect service, the
78 plaintiff may then serve that defendant by mailings made in
79 accordance with paragraph (2)(d) of this section addressed to that
80 defendant at;

81 * * * *

82 D(4)(b) **Notification of change of address.** [Every
83 motorist or user of the roads, highways, or streets of this state]
84 **Any person** who, while operating a motor vehicle upon the roads,
85 highways, [or] streets of, **or premises open to the public as**
86 **defined in ORS 801.400 within,** this state, is involved in any
87 accident, collision, or other event giving rise to liability,
88 shall forthwith notify the Department of Transportation of any
89 change of such defendant's address occurring within three years
90 after such accident, collision, or event.

91 * * * *