

**NOTICE SEEKING PUBLIC COMMENT ON PROPOSED OUT-OF-CYCLE  
REVISION OF UTCR 5.100**

**I. INTRODUCTION**

We are seeking comment on the following proposed out-of-cycle change to Uniform Trial Court Rule (UTCR) 5.100 -- SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS.

**II. HOW TO SUBMIT COMMENTS**

You may submit your comments by:

- website (<http://courts.oregon.gov/OJD/programs/utcr/pages/utcrrules.aspx>) – click on the button next to the proposed amendment
- email ([utcr@ojd.state.or.us](mailto:utcr@ojd.state.or.us))
- traditional mail (UTCR Reporter, Supreme Court Building, 1163 State Street, Salem, Oregon, 97301-2563)

Please submit your comments so that we receive them by 5:00 p.m., on April 30, 2015.

**III. PROPOSED REVISION**

For amended rules, proposed deletions are in [*brackets and italics*], and proposed additions are in {**braces, underline, and bold**}.

**1. 5.100**

**EXPLANATION**

This proposal was submitted on behalf of the Oregon eCourt Law & Policy Work Group by Lisa Norris-Lampe, Chair, on March 13, 2015. It is in response to a proposal from circuit court judges who sign proposed orders and judgments using the new Oregon eCourt system; the revision if adopted, would apply to all Oregon circuit courts, not just those using the Oregon eCourt system.

The proposed revision to UTCR 5.100 would break the current rule into three parts: service, objection, and submission.

The service provisions include specific notice requirements and lengthen the time between service and submission, to 14 days from 3 days (current, if opposing party represented) or 7 days (current, if opposing party not represented).

The objection provisions require the objecting party to date and sign any objection and serve it on the drafting party, and require the drafting party to make a reasonable effort to resolve the objection.

The submission provisions retain the current certificate of service requirement and also clarify that a proposed order or judgment may be submitted sooner than the 14-day period for objection, if the opposing party has stipulated to or approved the form of order or judgment, or has if the opposing party has objected and the objections are resolved or ready for resolution. Finally, the submission provisions require that a "certificate of readiness" be included on proposed orders and judgments submitted to

the court, certifying that the proposed order or judgment is ready for judicial signature or that objections are ready for resolution, and also stating the "readiness" reason.

PROPOSED REVISION

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to Comment  
on This Rule](#)

5.100 **{SERVICE AND}** SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS

- (1) **{Service of Proposed Order or Judgment}***[Any proposed judgment or proposed order submitted in response to a ruling of the court must be:]*
- (a) **{Except as provided in subsections (1)(c) and (3)(a) of this rule, any proposed order or judgment to be submitted to the court must be}** served**{, pursuant to ORCP 9,}** on **{the}** opposing **{party}***[counsel]* not less than **{14}***[3]* days prior to submission to the court**{, together with the notice described in subsection (1)(b) of this rule.}***[, or]*
- (b) **{The accompanying notice must inform the opposing party that the party may:}***[accompanied by a stipulation by opposing counsel that no objection exists as to the form of the judgment or order, or]*
- {(i) stipulate to or approve the proposed order or judgment by signature;**
- {(ii) approve by written confirmation to the sender the form of the proposed order or judgment; or}**
- {(iii) object to the proposed order or judgment in writing within 14 days. The information required by this paragraph must be in substantially the following form: "Any objection to the form of this order or judgment must be served on me within 14 days. You must date and sign any objection."}**
- (c) **{The requirements of subsection (1)(a) of this rule do not apply to:}***[mailed to a self-represented party at the party's last known address not less than 7 days prior to submission to the court, or]*
- {(i) a proposed order or judgment presented in open court with the parties present;**
- {(ii) a proposed order or judgment that may be presented ex parte by law or rule and is so submitted;**
- {(iii) a proposed judgment when an order of default already has been entered or is simultaneously being requested against the other party;**
- {(iv) a proposed judgment subject to UTCR 10.090;**
- {(v) uncontested probate and protective proceedings; and}**
- {(vi) matters certified to the court under ORS 416.422, ORS 416.430, ORS 416.435, and ORS 416.448.}**

- (d) **{Any proposed judgment containing an award of punitive damages must be served on the Director of the Crime Victims' Assistance Section, Oregon Department of Justice, 1162 Court Street NE, Salem, OR 97301, not less than 3 days prior to submission to the court.}***[presented in open court with the parties present.]*
- (2) **{Objection to Proposed Order or Judgment}***[A certificate describing the manner of compliance with subsection (1)(a) or (1)(c) of this rule must be attached to a proposed judgment or order submitted to the court.]*
- {(a) If an opposing party objects to the proposed order or judgment, then the objecting party must:**
- (i) date and sign the objection; and**
- (ii) serve the objection, pursuant to ORCP 9, on the drafting party within 14 days from the date of service of the proposed order or judgment.**
- (b) After receiving an objection, the drafting party must make a reasonable effort to resolve the objection before submitting the proposed order or judgment to the court. If the parties are unable to resolve the form of the proposed order or judgment after a reasonable effort, the drafting party must file with the court, as part of submitting the proposed order or judgment under section (3) of this rule, a copy of any objection received and indicate any objection that remains unresolved.**
- (c) The objecting party may independently file objections with the court.}**
- (3) **{Submission of Proposed Order or Judgment}***[The requirements of subsection (1) of this rule do not apply to:]*
- {(a) A party may submit to the court a proposed order or judgment that is subject to subsection (1)(a) of this rule before expiration of the 14-day period for objection set out in subsection (2)(a)(ii) of this rule if the other party:}***[proposed judgments subject to UTCR 10.090, and]*
- (i) stipulates to or approves the form of order or judgment, as shown by that party's signature on the form or order of judgment, before the 14-day period expires;**
- (ii) approves by written confirmation to the sender the form of the proposed order or judgment, before the 14-day period expires; or**
- (iii) objects before the 14-day period expires, and all objections are resolved by agreement or are ready for court for resolution at the time of submission.**
- (b) Every proposed order or judgment submitted to the court that is subject to subsections (1)(a) or (1)(d) of this rule must include a Certificate of Service describing the manner of compliance with the service requirement set out in those subsections.**
- (c) Every proposed order or judgment submitted to the court for judicial signature must include on its last page a Certificate of Readiness that**

**includes the date and signature of the submitting party and that certifies that the proposed order or judgment is ready for judicial signature or that objections are ready for resolution. The Certificate must be in substantially the following form:**{*uncontested probate and protective proceedings.*}

**["Certificate of Readiness:**

**"This proposed order or judgment is ready for judicial signature because:**

**"1. [ ] Each opposing party affected by this order or judgment has stipulated to or approved its terms, as shown by each party's signature on the proposed order or judgment being submitted.**

**"2. [ ] Each opposing party affected by this order has approved the form of the document, as shown by written communication to me.**

**"3. [ ] I have served a copy on all parties entitled to service and provided written notice of the 14-day objection period set out in subsection (2)(a)(ii) of this rule and:**

**"a. [ ] No objection has been served on me within that time frame.**

**"b. [ ] I received objections that I could not resolve with the objecting party despite reasonable efforts to do so. I have filed with the court a copy of the objections I received and indicated which objections remain unresolved.**

**"4. [ ] The relief sought is against a party who has been found in default.**

**"5. [ ] An order of default is being requested with this proposed judgment.**

**"6. [ ] Service is not required pursuant to subsection (1)(c) of this rule, or by statute, rule, or otherwise.**

**"7. [ ] This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (1)(d) of this rule."**

*[(4) Any proposed judgment containing an award of punitive damages shall be served on the Director of the Crime Victims' Assistance Section, Oregon Department of Justice, 1162 Court Street NE, Salem, OR 97301, not less than 3 days prior to submission to the court.]*