

**OREGON STATE BAR
LEGISLATIVE PROPOSAL
Part I – Legislative Summary**

Re: Update to the Proof of Mailing Requirement

Submitted by: Oregon State Bar Appellate Law Section

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1. Does this amend current law or program? Yes No Specify

ORS 19.260

2. Problem Presented:

In 2019, the Oregon Supreme Court ruled in *State v. Chapman*, 298 Or App 603, 614-22, 448 P3d 721 (2019) that the use of first class mail was calculated to satisfy the proof of mailing requirement found in ORS 19.260. However, a number of Justices had serious concerns about the Court of Appeals being able to logistically handle the outcome of the statutory requirement.

3. Solution:

Amend ORS 19.260 to allow for the use of postmarks as sufficient proof of mailing.

Additional background materials are available upon request. Please contact Susan Grabe (sgrabe@osbar.org) or Amy Zubko (azubko@osbar.org) for more information.

**OREGON STATE BAR
LEGISLATIVE PROPOSAL
Part II – Legislative Language**

Please provide your legislative language below:

ORS 19.260

(1)(a) Filing a notice of appeal in the Court of Appeals or the Supreme Court may be accomplished by mail or delivery. Regardless of the date of actual receipt by the court to which the appeal is taken, the date of filing the notice is the date of mailing or dispatch for delivery, if the notice is:

- (A) Mailed by ~~any class of mail from the United States Postal Service~~~~registered or certified mail~~ and the party filing the notice has proof from the United States Postal Service of the mailing date; or
- (B) Mailed or dispatched via ~~the United States Postal Service or~~ a commercial delivery service by a class of delivery calculated to achieve delivery within three calendar days, and the party filing the notice has proof from the ~~United States Postal Service or the~~ commercial delivery service of the mailing or dispatch date.

(b) Proof of the date of mailing or dispatch under this subsection must be certified by the party filing the notice and filed thereafter with the court to which the appeal is taken. Any record of mailing or dispatch from the United States Postal Service or the commercial delivery service showing the date that the party initiated mailing or dispatch is sufficient proof of the date of mailing or dispatch.

(A) If the notice is mailed via the United States Postal Service first class mail, a sufficient proof of mailing or dispatch includes the date shown on the postmark affixed by the United States Postal Service.

(B) If the notice is received by the court on or before the date by which the notice is required to be filed, the party filing the notice is not required to file proof of mailing or dispatch.

(2)(a) Service of notice of appeal on a party, transcript coordinator or the trial court administrator, or service of a petition for judicial review on a party or administrative agency may be accomplished by:

- (A) First class, registered or certified mail; or
- (B) Mail or dispatch for delivery via the United States Postal Service or a commercial delivery service by a class of delivery calculated to achieve delivery within three calendar days.

(b) The date of serving the notice under this subsection is the date of mailing or dispatch. The party filing the notice must certify the date and method of service.

(3) Notwithstanding subsections (1) and (2) of this section, if the party filing a notice of appeal is involuntarily confined in a state or local governmental facility, the date of filing of a notice of appeal in the Court of Appeals or the Supreme Court, and the date of service under subsection (2) of this section, is the date on which the party delivers the original notice of appeal, and the appropriate number of copies of the notice for service under subsection (2) of this section, to the person or place designated by the facility for handling outgoing mail.

(4) Except as otherwise provided by law, the provisions of this section are applicable to petitions for judicial review, cross petitions for judicial review and petitions under the original jurisdiction of the Supreme Court or Court of Appeals.