

**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(1)(a), and either bring it back to its pre-2015 form or provide for the postmark date as the date of filing if the mailing is sent via U.S. first-class mail. If amended to its pre-2015 form, an appellant would only be able to use the mailing rule for filing notices of appeal if notice is mailed by registered or certified mail. Postmark date filing would preserve U.S. first-class mail as an option.

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**LEGISLATIVE PROPOSAL**  
**Part II – Legislative Language**

Please provide your legislative language below:

The Appellate Law Section has provided proposed draft language, however they are still working with stakeholders to find the best solution. They expect to have updated statutory language for consideration in the coming weeks.

Please see below for the proposed draft language currently under discussion. Concerns with the below draft language relate to preserving first-class mail as an option for middle and low-income Oregonians and pro se litigants. We believe a certified/registered mail only option creates barriers to access in the appellate courts that the Section and the bar should seek to avoid.

(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 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.]* 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.