

1 **Rule 12. Motions.**

2 (a) Motions. An application to the court for an order shall be by motion, which, unless
3 made during a trial or hearing, shall be in writing and in accordance with this rule. A
4 motion shall state succinctly and with particularity the grounds upon which it is made
5 and the relief sought. A motion need not be accompanied by a memorandum unless
6 required by the court.

7 (b) Request to Submit for Decision. If neither party has advised the court of the filing
8 nor requested a hearing, when the time for filing a response to a motion and the reply
9 has passed, either party may file a request to submit the motion for decision. ~~The~~
10 ~~request shall be a separate pleading captioned "Request to Submit for Decision."~~ If a
11 written Request to Submit is filed it shall be a separate pleading so captioned. The
12 Request to Submit for Decision shall state the date on which the motion was served, the
13 date the opposing memorandum, if any, was served, the date the reply memorandum, if
14 any, was served, and whether a hearing has been requested. The notification shall
15 contain a certificate of mailing to all parties. If no party files a written Request to Submit,
16 or the motion has not otherwise been brought to the attention of the court, the motion
17 will not be considered submitted for decision.

18 (c) Time for filing specified motions. Any defense, objection or request, including
19 request for rulings on the admissibility of evidence, which is capable of determination
20 without the trial of the general issue may be raised prior to trial by written motion.

21 (c)(1) The following shall be raised at least five days prior to the trial:

22 (c)(1)(A) ~~defenses and objections based on defects in the indictment or information~~
23 ~~other than that it fails to show jurisdiction in the court or to charge an offense, which~~
24 ~~objection shall be noticed by the court at any time during the pendency of the~~
25 ~~proceeding;~~

26 (c)(1)(B) motions to suppress evidence;

27 (c)(1)(C) requests for discovery where allowed;

28 (c)(1)(D) requests for severance of charges or defendants; ~~or~~

29 (c)(1)(E) motions to dismiss on the ground of double jeopardy; or

30 (c)(1)(F) motions challenging jurisdiction, unless good cause is shown why the issue
31 could not have been raised at least five days prior to trial.

32 (c)(2) Motions for a reduction of criminal offense at sentencing pursuant to Utah
33 Code Section 76-3-402(1), shall be in writing and filed at least ten days prior to the date
34 of sentencing unless the court sets the date for sentencing within ten days of the entry
35 of conviction. Motions for a reduction of criminal offense pursuant to Utah Code Section
36 76-3-402(2) may be raised at any time after sentencing upon proper service of the
37 motion on the appropriate prosecuting entity.

38 (d) Motions to Suppress. A motion to suppress evidence shall:

39 (d)(1) describe the evidence sought to be suppressed;

40 (d)(2) set forth the standing of the movant to make the application; and

41 (d)(3) specify sufficient legal and factual grounds for the motion to give the opposing
42 party reasonable notice of the issues and to enable the court to determine what
43 proceedings are appropriate to address them.

44 If an evidentiary hearing is requested, no written response to the motion by the non-
45 moving party is required, unless the court orders otherwise. At the conclusion of the
46 evidentiary hearing, the court may provide a reasonable time for all parties to respond to
47 the issues of fact and law raised in the motion and at the hearing.

48 (e) A motion made before trial shall be determined before trial unless the court for
49 good cause orders that the ruling be deferred for later determination. Where factual
50 issues are involved in determining a motion, the court shall state its findings on the
51 record.

52 (f) Failure of the defendant to timely raise defenses or objections or to make
53 requests which must be made prior to trial or at the time set by the court shall constitute
54 waiver thereof, but the court for cause shown may grant relief from such waiver.

55 (g) Except in justices' courts, a verbatim record shall be made of all proceedings at
56 the hearing on motions, including such findings of fact and conclusions of law as are
57 made orally.

58 (h) If the court grants a motion based on a defect in the institution of the prosecution
59 or in the indictment or information, it may also order that bail be continued for a

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60 reasonable and specified time pending the filing of a new indictment or information.

61 Nothing in this rule shall be deemed to affect provisions of law relating to a statute of

62 limitations.

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