

1 Rule 12. Motions.

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

6 (b) Request to Submit for Decision. When the time for filing a response to a motion and the reply  
7 has passed, either party may file a request to submit the motion for decision. The request shall be a  
8 separate pleading captioned "Request to Submit for Decision." The Request to Submit for Decision  
9 shall state the date on which the motion was served, the date the opposing memorandum, if any, was  
10 served, the date the reply memorandum, if any, was served, and whether a hearing has been  
11 requested. The notification shall contain a certificate of mailing to all parties. If no party files a  
12 request, the motion will not be submitted for decision.

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

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

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

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

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

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

23 (c)(1)(E) motions to dismiss on the ground of double jeopardy.

24 (c)(2) Motions for a reduction of criminal offense at sentencing pursuant to Utah Code Section  
25 76-3-402, shall be in writing and filed at least ten days prior to the date of sentencing unless the  
26 court sets the date for sentencing within ten days of the entry of conviction.

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

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

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

30 (d)(3) specify the legal grounds for the motion in sufficient detail to give the opposing party  
31 reasonable notice of the issues and to enable the court to determine what proceedings are appropriate  
32 to address them.

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

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

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

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

45 ~~(g)~~(h) If the court grants a motion based on a defect in the institution of the prosecution or in the  
46 indictment or information, it may also order that bail be continued for a reasonable and specified  
47 time pending the filing of a new indictment or information. Nothing in this rule shall be deemed to  
48 affect provisions of law relating to a statute of limitations.

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