

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. If a written  
10 Request to Submit is filed it shall be a separate pleading so captioned. The Request to  
11 Submit for Decision shall state the date on which the motion was served, the date the  
12 opposing memorandum, if any, was served, the date the reply memorandum, if any,  
13 was served, and whether a hearing has been requested. The notification shall contain a  
14 certificate of mailing to all parties. If no party files a written Request to Submit, or the  
15 motion has not otherwise been brought to the attention of the court, the motion will not  
16 be considered submitted for decision.

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

20 (1) The following shall be raised at least 7 days prior to the trial:

21 (A) defenses and objections based on defects in the indictment or information ;

22 (B) motions to suppress evidence;

23 (C) requests for discovery where allowed;

24 (D) requests for severance of charges or defendants;

25 (E) motions to dismiss on the ground of double jeopardy ; or

26 (F) motions challenging jurisdiction, unless good cause is shown why the issue  
27 could not have been raised at least 7 days prior to trial.

28 (2) Motions for a reduction of criminal offense at sentencing pursuant to Utah Code  
29 Section 76-3-402(1) shall be in writing and filed at least 14 days prior to the date of  
30 sentencing unless the court sets the date for sentencing within ten days of the entry  
31 of conviction. Motions for a reduction of criminal offense pursuant to Utah Code  
32 Section 76-3-402(2) may be raised at any time after sentencing upon proper service of  
33 the motion on the appropriate prosecuting entity.

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

35 (1) describe the evidence sought to be suppressed;

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

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

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

44 | (e) **Motions made before trial.** A motion made before trial shall be determined before  
45 trial unless the court for good cause orders that the ruling be deferred for later  
46 determination. Where factual issues are involved in determining a motion, the court  
47 shall state its findings on the record.

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

52 | (g) **Record of proceedings.** A verbatim record shall be made of all proceedings at the  
53 | hearing on motions, including such findings of fact and conclusions of law as are made  
54 | orally.

55 | (h) **Defects in the institution of the prosecution or indictment or information.** If the  
56 | court grants a motion based on a defect in the institution of the prosecution or in the  
57 | indictment or information, it may also order that bail be continued for a reasonable and  
58 | specified time pending the filing of a new indictment or information. Nothing in this  
59 | rule shall be deemed to affect provisions of law relating to a statute of limitations.

60 | **(i) Motions challenging the constitutionality of Utah statutes, ordinances, and other**  
61 | **governmental enactments.**

62 | **(1) Challenges to a statute.** If a party in a court of record challenges the  
63 | constitutionality of a statute in an action in which the Attorney General has not  
64 | appeared, the party raising the question of constitutionality shall notify the Attorney  
65 | General of such fact by serving the notice on the Attorney General by email or, if  
66 | circumstances prevent service by email, by mail at the address below. The party  
67 | shall then file proof of service with the court.

68 | Email: [notices@agutah.gov](mailto:notices@agutah.gov)

69 | Mail:

70 | Office of the Utah Attorney General

71 | Attn: Utah Solicitor General

72 | 350 North State Street, Suite 230

73 | P.O. Box 142320

74 | Salt Lake City, Utah 84114-2320

75 | **(2) Challenges to an ordinance or other governmental enactment.** If a party  
76 | challenges the constitutionality of a governmental entity's ordinance, rule, or other  
77 | administrative or legislative enactment in an action in which the governmental

78 entity has not appeared, the party raising the question of constitutionality shall  
79 notify the governmental entity of such fact by serving the person identified in Rule  
80 4(d)(1) of the Utah Rules of Civil Procedure. The party shall then file proof of service  
81 with the court.

82 **(3) Notification procedures.**

83 (A) **Form and content.** The notice shall (i) be in writing, (ii) be titled “Notice  
84 of Constitutional Challenge Under URCrP 12(i),” (iii) concisely describe the  
85 nature of the challenge, and (iv) include, as an attachment, the pleading,  
86 motion, or other paper challenging the constitutionality of the statute ,  
87 ordinance, or other governmental enactment.

88 (B) **Timing.** The party shall serve the notice on the Attorney General or other  
89 governmental entity on or before the date the party files the paper  
90 challenging the constitutionality of the statute , ordinance, or other  
91 governmental enactment.

92 **(4) Attorney General’s or other governmental entity’s response to notice.**

93 (A) Within 14 days after the deadline for the parties to file all papers in response  
94 to the constitutional challenge, the Attorney General or other governmental  
95 entity (“responding entity”) shall file a notice of intent to respond unless the  
96 responding entity determines that a response is unnecessary. The responding  
97 entity may seek up to an additional 7 days’ extension of time to file a notice of  
98 intent to respond.

99 (B) If the responding entity files a notice of intent to respond within the time  
100 permitted by this rule, the court will allow the responding entity to file a  
101 response to the constitutional challenge and participate at oral argument when it  
102 is heard.

103 (C) Unless the parties stipulate to or the court grants additional time, the  
104 responding entity's response to the constitutional challenge shall be filed within  
105 14 days after filing the notice of intent to respond.

106 (D) The responding entity's right to respond to a constitutional challenge under  
107 Rule 25A of the Utah Rules of Appellate Procedure is unaffected by the  
108 responding entity's decision not to respond under this rule.

109 (5) **Failure to provide notice.** Failure of a party to provide notice as required by this  
110 rule is not a waiver of any constitutional challenge otherwise timely asserted. If a  
111 party does not serve a notice as required by this rule, the court may postpone the  
112 hearing until the party serves the notice.