

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 nor
8 requested a hearing, when the time for filing a response to a motion and the reply has
9 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
16 not be considered submitted for decision.

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

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

21 (c)(1)(A) defenses and objections based on defects in the indictment or
22 information;

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

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

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

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

27 (c)(1)(F) motions challenging jurisdiction, unless good cause is shown
28 why the issue could not have been raised at least 7 days prior to trial.

29 (c)(2) Motions for a reduction of criminal offense at sentencing pursuant to Utah
30 Code Section 76-3-402(1) shall be in writing and filed at least 14 days prior to the
31 date of sentencing unless the court sets the date for sentencing within ten days

32 of the entry of conviction. Motion for a reduction of criminal offense pursuant
33 to Utah Code Section 76-3-402(2) may be raised at any time after sentencing
34 upon proper service of the motion on the appropriate prosecuting entity.

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

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

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

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

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

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

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

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

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

61 (i) **Motions challenging the constitutionality of statutes and ordinances.**

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63 (i)(1) If a party in a court of record challenges the constitutionality of a statute in an
64 action in which the Attorney General has not appeared, the party raising the question of

65 constitutionality shall serve the pleadings on the Attorney General by either email or
66 mail at the following:

67 Email

Mail

68 notices@agutah.gov

Office of the Attorney General

69 Attn: Utah Solicitor General

70 320 Utah State Capitol

71 P.O. Box 142320

72 Salt Lake City, UT 84114-2320

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74 The court shall permit the state to be heard upon application within 14 days after
75 service of the notice.

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77 (i)(2) If a party challenges the constitutionality of a county or municipal ordinance in an
78 action in which the responsible county or municipal attorney has not appeared, the
79 party raising the question of constitutionality shall notify the county or municipal
80 attorney of such fact. The court shall permit the county or municipality to be heard
81 upon application within 14 days after service of the notice.

82 (i)(3) Failure of a party to provide notice as required by this rule is not a waiver of any
83 constitutionality challenge otherwise timely asserted.