

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.

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

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

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

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

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

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

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

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

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

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

(c)(3) Motions on the justification of the use of force pursuant to Utah Code section 76-2-309 shall be filed:

(c)(3)(A) in writing; and

(c)(3)(B) at least 28 days before trial, unless there is good cause shown as to why the issue could not have been raised at least 28 days before trial.

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

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

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

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

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

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

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

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

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66 (h) If the court grants a motion based on a defect in the institution of the prosecution or  
67 in the indictment or information, it may also order that bail be continued for a  
68 reasonable and specified time pending the filing of a new indictment or information.

69 Nothing in this rule shall be deemed to affect provisions of law relating to a statute of  
70 limitations.

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