# DUCrimR 12-1 PRETRIAL MOTIONS: TIMING, FORM, HEARINGS, MOTIONS TO SUPPRESS, CERTIFICATION, AND ORDERS; MOTIONS UNDER THE SPEEDY TRIAL ACT

1. **Motions Under the Speedy Trial Act (18 U.S.C. § 3161).**

A motion for continuance under the Speedy Trial Act must state:

* 1. the event and date that activated the time limits of the Speedy Trial Act;
  2. the current trial date;
  3. whether previous motions for continuance have been made and the disposition of the motions;
  4. whether the delay resulting from the requested continuance is excludable under the Speedy Trial Act, including citation to the specific statutory provision(s);
  5. specific reasons for the requested continuance supported by factual assertions, an explanation why the stated reasons support the need for the requested continuance, and an explanation why the act(s) cannot be completed or the event(s) cannot occur within the originally allotted time;
     1. If the motion seeks an ends-of-justice continuance under 18 U.S.C. § 3161(h)(7)(A), the motion must address all relevant factors under 18 U.S.C. § 3161(h)(7)(B) and include a discussion of how the stated reasons justify a continuance under each applicable factor. If a continuance is requested under 18 U.S.C. §3161(h)(7)(B)(iv) because additional time is required for effective preparation, the moving party must provide sufficient factual assertions to allow the court to determine whether counsel has exercised due diligence, including a summary of what steps counsel has taken to prepare for trial and what preparations remain, consistent with counsel’s obligation to protect privileges and trial strategy.
     2. If the motion seeks a continuance because other litigation presents a scheduling conflict, the motion must:
        1. identify the litigation by caption, case number, and court;
        2. list the date(s) of the other litigation, explain why it precludes counsel from adequately preparing for the instant trial, and why the trial or the conflicting litigation cannot be handled by another attorney; and
        3. recite any other relevant circumstances.
     3. If the motion seeks a continuance because of the complexity of the case, including voluminous discovery, the motion must include specific factual assertions demonstrating such complexity.
     4. If the motion seeks a continuance because of some type of personal hardship for counsel or the client, the motion must include specific factual assertions regarding the nature of that hardship and when the hardship might be resolved. The movant may file the motion under seal under DUCrimR 49-2.
  6. the period of continuance and other relief requested by the motion;
  7. a specific explanation, supported by factual assertions, of how the reasons offered in support of the motion justify the length of the continuance that has been requested;
  8. whether opposing counsel agrees with or objects to the requested continuance; and
  9. the impact, if any, of the continuance on other scheduled deadlines.

A motion must be accompanied by a proposed order. The proposed order, which must not differ in any respect from the relief requested in the motion, must state specifically the deadline(s) being extended and the proposed date(s) for the new deadline(s) and must include the findings required under the Speedy Trial Act. A template of a motion and proposed order can be found on the court’s website.