§ 255.20 Pre-trial motions; procedure.

1. Except as otherwise expressly provided by law, whether the defendant is represented by counsel or elects to proceed pro se, all pre-trial motions shall be served or filed within forty-five days after arraignment and before commencement of trial, or within such additional time as the court may fix upon application of the defendant made prior to entry of judgment. In an action in which either (a) material or information has been disclosed pursuant to paragraph (m) or (n) of subdivision one of section 245.20 of this title, (b) an eavesdropping warrant and application have been furnished pursuant to section 700.70 of this chapter, or (c) a notice of intention to introduce evidence has been served pursuant to section 710.30 of this chapter, such period shall be extended until forty-five days after the last date of such service. If the defendant is not represented by counsel and has requested an adjournment to obtain counsel or to have counsel assigned, such forty-five day period shall commence on the date counsel initially appears on defendant's behalf.

2. All pre-trial motions, with supporting affidavits, affirmations, exhibits and memoranda of law, whenever practicable, shall be included within the same set of motion papers, and shall be made returnable on the same date, unless the defendant shows that it would be prejudicial to the defense were a single judge to consider all the pre-trial motions. Where one motion seeks to provide the basis for making another motion, it shall be deemed impracticable to include both motions in the same set of motion papers pursuant to this subdivision.

3. Notwithstanding the provisions of subdivisions one and two hereof, the court must entertain and decide on its merits, at anytime before the end of the trial, any appropriate pre-trial motion based upon grounds of which the defendant could not, with due diligence, have been previously aware, or which, for other good cause, could not reasonably have been raised within the period specified in subdivision one of this section or included within the single set of motion papers as required by subdivision two. Any other pre-trial motion made after the forty-five day period may be summarily denied, but the court, in the interest of

justice, and for good cause shown, may, in its discretion, at any time before sentence, entertain and dispose of the motion on the merits.

4. Any pre-trial motion, whether made before or after expiration of the period specified in subdivision one of this section, may be referred by the court to a judicial hearing officer who shall entertain it in the same manner as a court. In the discharge of this responsibility, the judicial hearing officer shall have the same powers as a judge of the court making the assignment, except that the judicial hearing officer shall not determine the motion but shall file a report with the court setting forth findings of fact and conclusions of law. The rules of evidence shall be applicable at any hearing conducted hereunder by a judicial hearing officer. A transcript of any testimony taken, together with the exhibits or copies thereof, shall be filed with the report. The court shall determine the motion on the motion papers, affidavits and other documents submitted by the parties thereto, the record of the hearing before the judicial hearing officer, and the judicial hearing officer's report.