§ 710.40 Motion to suppress evidence; when made and determined.

1. A motion to suppress evidence must be made after the commencement of the criminal action in which such evidence is allegedly about to be offered, and, except as otherwise provided in section 710.30 and in subdivision two of this section, it must be made within the period provided in subdivision one of section 255.20.

2. The motion may be made for the first time when, owing to unawareness of facts constituting the basis thereof or to other factors, the defendant did not have reasonable opportunity to make the motion previously, or when the evidence which he seeks to suppress is of a kind specified in section 710.30 and he was not served by the people, as provided in said section 710.30, with a pre-trial notice of intention to offer such evidence at the trial.

3. When the motion is made before trial, the trial may not be commenced until determination of the motion.

4. If after a pre-trial determination and denial of the motion the court is satisfied, upon a showing by the defendant, that additional pertinent facts have been discovered by the defendant which he could not have discovered with reasonable diligence before the determination of the motion, it may permit him to renew the motion before trial or, if such was not possible owing to the time of the discovery of the alleged new facts, during trial.