§ 4506. Eavesdropping evidence; admissibility; motion to suppress in certain cases. 1. The contents of any overheard or recorded communication, conversation or discussion, or evidence derived therefrom, which has been obtained by conduct constituting the crime of eavesdropping, as defined by section 250.05 of the penal law, may not be received in evidence in any trial, hearing or proceeding before any court or grand jury, or before any legislative committee, department, officer, agency, regulatory body, or other authority of the state, or a political subdivision thereof; provided, however, that such communication, conversation, discussion or evidence, shall be admissible in any civil or criminal trial, hearing or proceeding against a person who has, or is alleged to have, committed such crime of eavesdropping.

2. As used in this section, the term "aggrieved person" means:

(a) A person who was a sender or receiver of a telephonic or telegraphic communication which was intentionally overheard or recorded by a person other than the sender or receiver thereof, without the consent of the sender or receiver, by means of any instrument, device or equipment; or

(b) A party to a conversation or discussion which was intentionally overheard or recorded, without the consent of at least one party thereto, by a person not present thereat, by means of any instrument, device or equipment; or

(c) A person against whom the overhearing or recording described in paragraphs (a) and (b) was directed.

3. An aggrieved person who is a party in any civil trial, hearing or proceeding before any court, or before any department, officer, agency, regulatory body, or other authority of the state, or a political subdivision thereof, may move to suppress the contents of any overheard or recorded communication, conversation or discussion or evidence derived therefrom, on the ground that:

(a) The communication, conversation or discussion was unlawfully overheard or recorded; or

(b) The eavesdropping warrant under which it was overheard or recorded is insufficient on its face; or

(c) The eavesdropping was not done in conformity with the

eavesdropping warrant.

4. The motion prescribed in subdivision three of this section must be made before the judge or justice who issued the eavesdropping warrant. If no eavesdropping warrant was issued, such motion must be made before a justice of the supreme court of the judicial district in which the trial, hearing or proceeding is pending. The aggrieved person must allege in his motion papers that an overheard or recorded communication, conversation or discussion, or evidence derived therefrom, is subject to suppression under subdivision three of this section, and that such communication, conversation or discussion, or evidence, may be used against him in the civil trial, hearing or proceeding in which he is a party. The motion must be made prior to the commencement of such trial, hearing or proceeding, unless there was no opportunity to make such motion or the aggrieved person was not aware of the grounds of the motion. If the motion is granted, the contents of the overheard or recorded communication, conversation or discussion or evidence derived therefrom, may not be received in evidence in any trial, hearing or proceeding.