

## **Alabama Rules of Criminal Procedure**

### **Rule 34. Form, content, and service of motions and requests.**

#### *Rule 34.1. Motions: Form, content, and rights of reply.*

Unless otherwise specified in these rules or permitted by the court, all motions shall be in writing, shall state the name of the court and the title of the action (if applicable), shall state with particularity the grounds therefor and the relief or order sought, and shall be served on all other parties. Oral motions made during the trial and which appear on the record need not be in writing. Each party may, within seven (7) days, file and serve a response to a motion, and the moving party may, within three (3) additional days, file and serve a reply, which shall be directed only to matters raised for the first time in the response. Responses and replies shall be in the form required for motions. If no response is filed, the motion shall be deemed submitted on the record before the court. The court may, in its discretion, extend or reduce the time for filing and serving a response or reply.

### **Committee Comments**

The requirement that all motions shall be in writing unless otherwise permitted by the court or unless made during a trial or a hearing and appearing on the record conforms to Rule 7(b), A.R.Civ.P. Rule 47, Fed.R.Crim.P., also has a similar provision.

The requirement that motions state with particularity the relief or order sought also conforms with Rule 7(b), A.R.Civ.P., and Rule 47, Fed.R.Crim.P. The requirement that the motion be served on all other parties conforms with Rule 49(a), Fed.R.Crim.P. This requirement comports with the basic notion that is present throughout the rules, that all parties should have access to as much non-privileged information that is relevant to the case as is possible.

This rule corresponds to Rule 27, A.R.App.P. Permitting a reply by the moving party to the response to the motion allows the moving party an opportunity to address new issues that the opposing party may have raised in the response.

The requirement that responses and replies be in the same form as motions will impose no undue hardship on attorneys and will lead to orderly motion practice. Permitting the matters to be deemed submitted on the record if no response is filed conforms with Alabama practice.