Rule 5224. Subpoena; procedure. (a) Kinds and service of subpoena. Any or all of the following kinds of subpoenas may be served:

1. a subpoena requiring attendance for the taking of a deposition upon oral or written questions at a time and place named therein; or

2. a subpoena duces tecum requiring the production of books and papers for examination at a time and place named therein; or

3. an information subpoena, accompanied by a copy and original of written questions and a prepaid, addressed return envelope. Service of an information subpoena may be made by registered or certified mail, return receipt requested. Answers shall be made in writing under oath by the person upon whom served, if an individual, or by an officer, director, agent or employee having the information, if a corporation, partnership or sole proprietorship. Each question shall be answered separately and fully and each answer shall refer to the question to which it responds. Answers shall be returned together with the original of the questions within seven days after receipt. Where the person serving the subpoena is a judgment creditor, other than where the state, a municipality or an agency or officer of the state or a municipality is the judgment creditor, the following additional rules shall apply:

(i) information subpoenas, served on an individual or entity other than the judgment debtor, may be served on an individual, corporation, partnership or sole proprietorship only if the judgment creditor or the judgment creditor's attorney has a reasonable belief that the party receiving the subpoena has in their possession information about the debtor that will assist the creditor in collecting his or her judgment. Any information subpoena served pursuant to this subparagraph shall contain a certification signed by the judgment creditor or his or her attorney stating the following: I HEREBY CERTIFY THAT THIS INFORMATION SUBPOENA COMPLIES WITH RULE 5224 OF THE CIVIL PRACTICE LAW AND RULES AND SECTION 601 OF THE GENERAL BUSINESS LAW THAT I HAVE A REASONABLE BELIEF THAT THE PARTY RECEIVING THIS SUBPOENA HAS IN THEIR POSSESSION INFORMATION ABOUT THE DEBTOR THAT WILL ASSIST THE CREDITOR IN COLLECTING THE JUDGMENT. By signing the certification, the judgment creditor or attorney certifies that, to the best of that person's knowledge,

information and belief, formed after an inquiry reasonable under the circumstances, that the individual or entity receiving the subpoena has relevant information about the debtor.

(ii) if an information subpoena, served on an individual or entity other than the judgment debtor, does not contain the certification provided for in subparagraph (i) of this paragraph, such subpoena shall be deemed null and void.

(iii) if an information subpoena, served on an individual or entity other than the judgment debtor, does contain the certification provided for in subparagraph (i) of this paragraph, the individual, corporation, partnership or sole proprietorship receiving the subpoena, may move to quash the subpoena pursuant to section twenty-three hundred four of this chapter, except that such motion shall be made in the court that issued the underlying judgment.

(iv) failure to comply with an information subpoena shall be governed by subdivision (b) of section twenty-three hundred eight of this chapter, except that such motion shall be made in the court that issued the underlying judgment.

4. an information subpoena in the form of magnetic tape or other electronic means. Where the person to be served consents thereto in writing, an information subpoena in the form of magnetic tape or electronic means, as defined in subdivision (f) of rule twenty-one hundred three of this chapter, may be served upon the individual, or if a corporation, partnership, limited liability company, or sole proprietorship, upon the officer, director, agent or employee having the information. Answers shall be provided within seven days.

(a-1) Scope of subpoena duces tecum. A subpoena duces tecum authorized by this rule and served on a judgment debtor, or on any individual while in the state, or on a corporation, partnership, limited liability company or sole proprietorship doing business, licensed, qualified, or otherwise entitled to do business in the state, shall subject the person or other entity or business served to the full disclosure prescribed by section fifty-two hundred twenty-three of this article whether the materials sought are in the possession, custody or control of the subpoenaed person, business or other entity within or without the state. Section fifty-two hundred twenty-nine of this article shall also apply

to disclosure under this rule.

(b) Fees. A judgment debtor served with a subpoena under this section and any other person served with an information subpoena shall not be entitled to any fee. Any other person served with a subpoena requiring attendance or the production of books and papers shall be paid or tendered in advance authorized traveling expenses and one day's witness fee.

(c) Time and place of examination. A deposition on oral or written questions or an examination of books and papers may proceed upon not less than ten days' notice to the person subpoenaed, unless the court orders shorter notice, before any person authorized by subdivision (a) of rule 3113. An examination shall be held during business hours and, if taken within the state, at a place specified in rule 3110. Upon consent of the witness, an examination may be held at any other place within the state and before any officer authorized to administer an oath.

(d) Conduct of examination. The officer before whom the deposition is to be taken shall put the witness on oath. If requested by the person conducting the examination, the officer shall personally, or by some one acting under his direction, record and transcribe the testimony and shall list all appearances by the parties and attorneys. Examination and cross-examination of the witness shall proceed as permitted in the trial of actions in open court. Cross-examination need not be limited to the subject matter of the examination in chief. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or of a person recording it, or to the manner of taking it, or to the testimony presented, or to the conduct of any person, and any other objection to the proceedings, shall be noted by the officer upon the deposition and the deposition shall proceed subject to the right of a person to apply for a protective order. The deposition shall be taken continuously and without unreasonable adjournment, unless the court orders or the witness agrees otherwise. If the witness does not understand the English language, the judgment creditor shall, at his own expense, provide a translation of all questions and answers. Unless the court orders otherwise, a person other than the judgment debtor served with a subpoena duces tecum requiring the production of books of account may produce in place of the original books of account a sworn transcript of such accounts as are relevant.

(e) Signing deposition; physical preparation. At the request of the person conducting the examination, a deposition on written questions or a deposition on oral questions which has been transcribed shall be submitted to the witness and shall be read to or by him, and any changes in form or substance which the witness desires to make shall be entered upon the deposition with a statement of the reasons given by the witness for making them; and the deposition shall then be signed by the witness before any officer authorized to administer an oath. If the witness fails to sign the deposition, the officer before whom the deposition was taken shall sign it and state on the record the fact of the witness's failure or refusal to sign together with any reason given. The deposition may then be used as fully as though signed. Where testimony is transcribed, the officer before whom the deposition was taken shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness.

(f) Subsequent examination. Leave of court is required to compel a judgment debtor to appear for the taking of his deposition or to compel the production by him of books and papers within one year after the conclusion of a previous examination of him with respect to the same judgment.