

PROCEDURES FOR GARNISHING/SERVING FOREIGN CORPORATIONS
(Corporations not incorporated in the State of Delaware)

1. To determine if the defendant is "qualified to do business" in Delaware under 8 *Del.C.* § 371, the plaintiff can call the Secretary of State's Office ((302) 739-3073). If the defendant/garnishee corporation is qualified under § 371, the plaintiff can obtain the name and address of the registered agent of the corporation from the Secretary of State's office and provide that information to the Justice of the Peace Court in order to serve the defendant/garnishee.

2. If the defendant/garnishee is qualified to do business in Delaware but there is no registered agent listed, the plaintiff should determine if there are any officers, agents or directors of the corporation in Delaware. If there are, then the plaintiff may file alias process for the Court to serve them.

3. If the defendant/garnishee is qualified to do business in Delaware but attempts to serve the registered agent or officers or directors of the corporation in Delaware are unsuccessful, then the plaintiff can have the **Secretary of State** served by supplying the Court with two copies of the process and the \$50.00 service fee for the Secretary of State. The Court then serves Secretary of State's office (one copy will be sent by certified mail to the defendant by the Secretary of State's office). Checks should be made payable to the Delaware Secretary of State and drawn on a United States bank.

4. If the Secretary of State's office tells the plaintiff that the defendant/garnishee corporation is not qualified to do business in Delaware, then the plaintiff can have the **Secretary of State** served and assert jurisdiction over the defendant under 8 *Del.C.* § 382 by supplying two copies of the process and the \$50.00 service fee for the Secretary of State to the Court (one copy will be sent by certified mail to the defendant by the Secretary of State's office). Checks should be made payable to the Delaware Secretary of State and drawn on a United States bank. **THIS SERVICE OF PROCESS WILL BE SUCCESSFUL ONLY if the defendant/garnishee transacts business in Delaware (there is a pattern of business activity by the defendant in the state) and the cause of action (what the lawsuit is about) directly relates to the defendant/garnishee's business activities in Delaware.**

5. If the plaintiff cannot show that the defendant/garnishee transacts business in Delaware and that the cause of action arose out of a business transaction in Delaware, then the plaintiff cannot obtain service by paying the \$50.00 service fee to the Secretary of State. The plaintiff, however, can attempt to serve the foreign corporation under 10 *Del.C.* § 3104. See J.P. Civ. Form No. 31 for instructions on how to serve the defendant/garnishee under 10 *Del.C.* § 3104.

NOTE: For a defendant/garnishee who is a corporation located outside of Delaware, the Plaintiff must first have the Court try to serve the corporation's registered agent (if the corporation is qualified to do business in Delaware under 8 *Del.C.* § 371), its other agents, directors or officers located in Delaware (if qualified under 8 *Del.C.* § 371), or through the Secretary of State's office (if qualified, but other attempts at service have failed or if not qualified to do business in Delaware). Only if jurisdiction cannot be obtained through those methods can the plaintiff look to 10 *Del.C.* § 3104 (see J.P. Civ. Form No. 31 for instructions) to assert jurisdiction.