

INFORMATION –PROCEEDINGS FOR DISSOLUTION OF MARRIAGE / LEGAL SEPARATION WITH CHILD

More information is located in Chapter 11.02 of the Lummi Code of Laws

These instructions apply when the husband and wife are both the legal parents of a child or the wife is pregnant. “Legal parentage” includes adoption, and also includes a child born during the marriage whether or not the husband is the biological father. Paternity can only be disestablished through application to the state division of vital statistics (accompanied with acknowledgement of paternity by birth father) or through court action.

Note re: Legal Separation or Declaration of Invalidity of Marriage. Use the same procedures and forms that are used for Dissolution of Marriage. There are boxes on the petition to indicate what type of relief you are seeking.

A. “ACCESS TO THE COURT - Instructions for Civil Cases”

Pick up a copy of this information sheet and review it for the general procedures to follow in civil cases.

B. Jurisdiction of Court

The Court only has jurisdiction over a dissolution proceeding if one or both parties to the marriage is a Lummi Tribal member or presently living on the Lummi Indian Reservation.

C. Forms Packet – Initiating Dissolution Proceeding

Court Forms packet (DM – P2) contains the following documents:

Petition for Dissolution of Marriage (With child)

Summons – Dissolution

Information – Child Custody and Visitation

Declaration for Parenting Plan

Parenting Plan

Child Support Information Sheet

Financial Declaration re: Child Support

Decree for Dissolution of Marriage (With child)

Certificate of Dissolution (state form)

Contact Information Sheet

D. Domestic Violence

If you fear for your safety, or the safety of your child(ren), you should file for an Emergency Domestic Violence Order. The Lummi Victims of Crime Office (384-2285) can be contacted for assistance. Court forms are also available for your use. If you are doing so, be sure to check that box in the caption of the Petition for Dissolution form.

E. Child Custody and Visitation

A separate information sheet is available regarding custody and visitation proceedings. (Court Form CC – 01) That information is relevant to custody and visitation issues in a dissolution proceeding. As part of a dissolution proceeding when children are involved, a Declaration in Support of Parenting Plan, and Parenting Plan must also be filed with the Court.

F. Child Support

When a dissolution proceeding involves a child, the Court is required to follow the Lummi Child Support Guidelines in establishing a support order. A party may contact the Lummi Nation Child Support Program to request assistance in establishing a child support order. Otherwise, the parties must submit a Financial Declaration form to the Court. A separate information sheet is available regarding child support proceedings (Court Form CD – 01).

E. Temporary Orders

Either party can seek certain temporary orders pending the final decree of dissolution. Court Form DM – 09 is available for this purpose. Examples of temporary orders are:

1. Restraining Order to restrain the other party from activities such as:
 - transferring, removing, encumbering, concealing, or in any way disposing of any property except in the usual course of business, or for the necessities of life, and, if so restrained or enjoined requiring that party to notify the other party of any proposed extraordinary expenditures made after the order is issued
 - molesting or disturbing peace the other party, and of any child of either party.
 - entering the family home or the other party's home
 - removing a child from Whatcom County (Court Form CC – 08 is also available for this purpose)

Note: if domestic violence is an issue, you should also file for an Emergency Domestic Violence Order

2. Ordering the other party to pay temporary child support.
3. Ordering the other party to pay temporary monthly maintenance.

F. Answering a Petition for Dissolution

Use Court Forms Packet AB – P3 to file an answer to a Petition for Dissolution.

1 Date of Birth: ____ / ____ / ____

2 The Respondent lives on off the Lummi Nation Reservation.

3 Respondent's tribal affiliation: _____

4 3. DEPENDENT CHILDREN

5 3.1 Dependent Children (only list those under 18 years of age)

6 Both of the parties are the legal parents of the following children:

7 Name: _____ DOB: _____

8 Name: _____ DOB: _____

9 Name: _____ DOB: _____

10 Name: _____ DOB: _____

11 The husband is and the wife is not the legal parent of the following children:

12 Name: _____ DOB: _____

13 Name: _____ DOB: _____

14 The wife is and the husband is not the legal parent of the following children:

15 Name: _____ DOB: _____

16 Name: _____ DOB: _____

17 3.2 Pregnancy

18 The wife is not believed to be pregnant.

19 The wife is pregnant. *Note: Under Lummi Tribal Code and Washington State law, the husband is the presumed father. If husband or wife believes the husband is not the father, this presumption may be challenged through state laws for up to two years after the birth of the child or as otherwise provided in RCW 26.26.500 through 26.26.625.*

20 4. ALLEGATION REGARDING MARRIAGE.

21 The Petitioner seeks a dissolution of marriage, which is irretrievably broken.

22 Petitioner seeks a legal separation

23 Pursuant to LCL 11.02.040, the Petitioner alleges that the marriage was invalid for the following reason: _____

24 5. DATED AND PLACE OF MARRIAGE.

25 The parties were married on ____ / ____ / ____ at _____
[Date] [City, State]

1 6. SEPARATION.

2 The parties separated on ___ / ___ / ___ are not separated.

3 7. JURISDICTION.

4 The Court has jurisdiction under LCL 11.02.030 because one or both parties to the marriage is:

5 an enrolled Lummi Tribal member as follows: Husband Wife

6 is presently living on the Lummi Indian Reservation as follows: Husband Wife

7 8. PROPERTY.

8 There is community or separate property owned by the parties. The court should make a fair and equitable division of all the property.

9 The division of property should be determined by the court at a later date.

10 The petitioner's recommendation for the division of property is set forth below. *(List real estate, furniture, vehicles, pensions, insurance, bank accounts, etc.. Attach separate sheet if necessary).*

11 1. The petitioner should be awarded the following property, or percentage of property:

12 _____
13 _____
14 _____
15 _____
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18 2. The respondent should be awarded the following property, or percentage of property:

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9. DEBTS AND LIABILITIES.

- The parties have no debts and liabilities.
- Each party should pay their own debts incurred since separation.
- The parties have debts and liabilities. The court should make a fair and equitable division of all debts and liabilities.
- The division of debts and liabilities should be determined by the court at a later date.
- The petitioner's recommendation for the division of debts and liabilities is set forth below:

1. The petitioner should be ordered to pay the following debts and liabilities:

| <u>Creditor</u> | <u>Amount</u> |
|-----------------|---------------|
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2. The respondent should be ordered to pay the following debts and liabilities:

| <u>Creditor</u> | <u>Amount</u> |
|-----------------|---------------|
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10. CHILD CUSTODY AND CHILD SUPPORT

10.1 Custody and Visitation with Child(ren)

The petitioner request that a parenting plan for custody and visitation with the child(ren) be entered in accordance with the petitioner's proposed parenting plan, and declaration in support of the parenting plan, filed with the Court simultaneously with this petition.

10.2 Child Support

1 The petitioner requests that child support be set in accordance with the Lummi Child
2 Support Guidelines.

- 3 The child support amount should be determined by the court at a later date.
4 The petitioner requests that a child support amount be set in accordance with the
5 Petition for Child Support that is being simultaneously filed.
6 The petitioner will be seeking the assistance from the Lummi Nation Child Support
7 Program in establishing a child support amount.

8 11. OTHER:
9

10 II. RELIEF REQUESTED

11 The petitioner requests the Court to enter a decree of dissolution of marriage a decree of
12 legal separation a declaration of invalidity of marriage, and to grant the relief below in
13 accordance with the Petition:

- 14 Divide the property and liabilities.
15 Establish an order for custody and visitation with the child(ren)
16 Establish an order for child support
17 Change name of wife to: _____.
18 Change name of husband to: _____.
19 Order payment of petitioner's attorney's fees, other professional fees and costs.
20 Other:

21 I declare under penalty of perjury of the laws of the Lummi Nation that 1) I have read this
22 Petition or it has been read to me; and 2) I understand the contents of the Petition and believe the
23 contents to be true and correct to the best of my knowledge, information, and belief, formed after
24 reasonable inquiry. Below is the address at which I can receive all legal documents, and I
25 understand I have the duty to update this address with the court if it changes.

Dated: _____

Plaintiff / Petitioner

Print or Type Name

Address

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City, State, Zip Code

Telephone Number

JOINDER (if applicable)

The respondent joins in the petition. By joining in the petition, the respondent agrees to the entry of the a decree, in accordance with the petition, without further notice.

I declare under penalty of perjury under the laws of the Lummi Nation that the statements made in this Petition are true and correct.

Dated: _____

Signature of Respondent

Print or Type Name

Address

City, State, Zip Code

Telephone Number

**IN THE TRIBAL COURT
FOR THE LUMMI NATION, WASHINGTON**

| | |
|---|--|
| <p>_____ , Plaintiff / Petitioner,</p> <p>vs.</p> <p>_____ , Defendant / Respondent</p> | <p>Case No.: _____ CVDM _____</p> <p>WORKSHEET – OUTSTANDING DEBTS AND ASSETS</p> <p>Submitted by: <input type="checkbox"/> Wife <input type="checkbox"/> Husband</p> |
|---|--|

(Attach additional pages if needed. Don't duplicate accurate information on the other party's worksheet.)

I. ALL DEBTS OWED

For each debt, provide the following information and attach any documentation of the original debt and any recent documentation that shows the current amount owed.

| | | | |
|-----------|--|-----------------|----|
| Creditor: | | Loan or Acct #: | |
| Type: | | Amt Owing: | \$ |
| Creditor: | | Loan or Acct #: | |
| Type: | | Amt Owing: | \$ |
| Creditor: | | Loan or Acct #: | |
| Type: | | Amt Owing: | \$ |
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| Type: | | Amt Owing: | \$ |
| Creditor: | | Loan or Acct #: | |
| Type: | | Amt Owing: | \$ |

1 **II. ALL PROPERTY OWNED**

2 For each item of property, provide a description and the estimated value. Describe each item
3 separately, and do not combine items together. If there is an account or other type of
4 identification number, state the number. Attach any documentation showing purchase price, and
5 any other document that would indicate present value. If an item of property is claimed as
6 separate property, state who claims ownership.

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|----|---|--|
| 7 | Vehicles | |
| 8 | Boats | |
| 9 | Trailer; House; and/or Land | |
| 10 | Cash and/or Banking Accounts | |
| 11 | Retirement Accounts | |
| 12 | Stocks / Bonds and/or Cash Value of Life Insurance | |
| 13 | Tools and/or Fishing equipment | |
| 14 | Business assets (fireworks stand, etc.) | |
| 15 | Artwork; Jewelry; Collections (stamps, coins, etc.) | |
| 16 | Electronics equipment (stereo, TV, etc.) | |

| | | |
|-----------------------------|--------------------------------|--|
| 1 2 | Ceremonial and sacred property | |
| 3 4 | Children's clothing, etc. | |
| 5 6 7 8 9 10 | Other valuables: | |

11 If there is any property held in trust for either of the parties, describe the property and its status.

12
13
14 I declare under penalty of perjury under all applicable civil and criminal laws that the statements
15 made in this financial worksheet (pages 1-4) are true and correct to the best of my knowledge
16 and belief.

17 _____
Dated

Signature

18 _____
Printed Name

19 SUBSCRIBED AND SWORN to before
20 me this _____ day of _____, 20__.

21 _____
Notary Public
22 My Commission Expires:

23 **COURT NOTICE TO OTHER SPOUSE: If you believe that this information is not**
24 **complete and/or accurate, use Court Form DM – 12 to make your own statement as to**
25 **assets and liabilities. File your statement with the Court and provide a copy to the other**
party.

INFORMATION – CHILD CUSTODY / VISITATION PROCEEDINGS

More information is located in Title 11.04 of the Lummi Code of Laws.

These instructions apply when a parent is requesting custody and/or a visitation schedule for a child. If a person other than a parent is requesting custody, use the forms for “Non-Parental Custody.”

A. “ACCESS TO THE COURT - Instructions for Civil Cases”

Pick up a copy of this information sheet and review it for the general procedures to follow in civil cases.

B. Type of Proceeding

A request to the court to obtain custody of a child can be filed independently, or can be part of a petition for dissolution of marriage, legal separation, or declaration of invalidity of a marriage.

C. Jurisdiction of Court

The Court only has jurisdiction over a child custody proceeding if the child is: 1) a permanent resident on the Lummi Nation Reservation; 2) found on the Lummi Nation Reservation; or 3) enrolled as a member of the Lummi Nation.

D. Factors in Granting Custody

LCL 11.04.020 states the following factor, among other relevant factors, that the Court shall use in determining custody in accordance with the best interests of the child.

- (a) The wishes of the child’s parent or parents as to his custody and visitation privileges.
- (b) The wishes of the child as to his custody and as to visitation privileges.
- (c) The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child’s best interests, including, but not limited to, the child’s extended family.
- (d) The child’s adjustment to his home, school, and community.
- (e) Availability of extended family to assist in the care and custody.
- (f) The mental and physical health of all individuals involved.
- (g) Tribal affiliation of the parties and the child.
- (h) The extent of the participation of the parties in tribal cultural activities.

The court shall not consider conduct of a proposed guardian that does not affect the welfare of the child.

E. Forms Packet – Initiating Child Custody Proceeding

The forms packet (CC – P1) contains the following documents:

- Summons – Child Custody / Visitation Petition
- Petition for Child Custody
- Declaration in Support of Parenting Plan
- Parenting Plan
- Ex Parte Motion for Emergency Order for Child Custody (to use if requesting)
- Contact Information Form

F. Emergency Requests for Custody

The following forms are used for requests to the court to grant an immediate order granting custody:

- CC –04 Ex Parte Motion for Temporary Child Custody Order; Order
- ZZ – 11 Ex Parte Application for Hearing on Shortened Time; Order

If you fear for your safety, or the safety of the child(ren), you should also file for an Emergency Domestic Violence Order. The Lummi Victims of Crime Office can be contacted for assistance. Court forms are also available for your use.

G. Motion to Bar Removal of Child

If you have a concern that the other parent will attempt to remove the child from the area, the following form is available to file. This must be filed in a proceeding that is being initiated, or has already been initiated.

- CC – 08 Ex Parte Motion Barring Removal of Child; Order

H. Visitation

If a parent wishes an order granting visitation rights, but does not wish to seek a change of custody, the following forms are available:

- CC – 02 Summons – Child Custody / Visitation Petition
- CC – 09 Petition for Residential / Visitation Schedule
- CC – 05 Declaration in Support of Parenting Plan
- CC – 06 Parenting Plan

I. Modification of Custody/Parenting Plan Order

More information is located in LCL 11.04.050, 11.04.070, and 11.04.080. General instructions for filing a motion for modification to a custody and/or parenting plan order are contained in Court Form XO – 02.

Use the following forms:

- CC – 07 Motion for Modification of Child Custody Order / Parenting Plan
- XO - 04 Notice of Motion for Modification of Order

For a request for change to the custody of a child, LCL 11.04.050(a) restricts the Court from changing custody unless:

- (1) the custodian agrees to the modification;
- (2) the child has already moved into the home of the person requesting a change of custody, is integrated into that family, and the move was made with the consent of the custodian; or
- (3) continued placement of the child with the custodian is detrimental to his physical, mental, or emotional health and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child; Provided, however, that if the child's present environment is adequate for his physical, mental and emotional health but a change in custody would result in a significantly improved environment which would clearly outweigh the detriment caused by the disruption of the child's living pattern, the Court may order a change in custody.

Note: the Lummi Code of Laws provides that the Court can award attorney fees and costs against a person who seeks in bad faith to modify custody

If you also wish an emergency order changing custody, file the forms listed under part (D) of this information sheet.

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b. The mother's current work schedule and availability to care for the children is as follows:

3. FATHER

a. During the past twelve months, the father has performed the following parenting functions related to the daily needs of the child(ren):

b. The father's current work schedule and availability to care for the children is as follows:

3. CHILD

The child(ren)'s schedule including child care, school, and other activities:

4. RISK TO CHILD(REN)

If I have requested restrictions under Part III of the Parenting Plan, or restrictions in Decision-Making in Part IV of the Parenting Plan, the following information shows the basis for the requested restrictions:

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5 **IN THE TRIBAL COURT
FOR THE LUMMI NATION, WASHINGTON**

| | |
|-------------|--|
| _____ | Case No.: _____ CVCC _____ |
| Petitioner, | PARENTING PLAN |
| and | <input type="checkbox"/> Final Order <input type="checkbox"/> Temporary |
| _____ | <input type="checkbox"/> Proposed by ___ Mother |
| Respondent. | ___ Father ___ Jointly |

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12 **I. GENERAL INFORMATION**

13 1.1 This parenting plan is:

- 14 the final parenting plan signed by the court.
15 the final parenting plan signed by the court modifying a previous parenting plan
or custody decree.
16 a temporary parenting plan signed by the court.
17 a plan proposed by _____ [name].

18 1.2 This parenting plan applies to the following children:

| Name | DOB | Tribal Affiliation |
|------|-----|--------------------|
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1 II. RESIDENTIAL SCHEDULE

2 2.1 DESIGNATION OF CUSTODIAN

3 The designated custodian for the children named in this parenting plan is the Mother
4 Father. This named person is designated the custodian of the child(ren) solely for purposes of all
5 other tribal codes, and state and federal statutes which require a designation or determination of
6 custody. This designation shall not affect either parent's rights and responsibilities under this
7 parenting plan.

8 The following provisions set forth where the child(ren) shall reside each day of the year and what
9 contact the child(ren) shall have with each parent.

10 2.2 SCHEDULE FOR CHILDREN UNDER SCHOOL AGE

11 There are no children under school age.

12 Prior to enrollment in school, the child(ren) shall reside with the Mother
13 Father, except for the following days and times when the child(ren) will reside
14 with or be with the other parent:

15 from _____ [day and time] to _____ [day and time]

16 every week every other week the first and third week of the month
17 the second and fourth week of the month Other:

18 2.3 SCHOOL SCHEDULE.

19 Upon their enrollment in school, the child(ren) shall reside with the Mother
20 Father, except as mutually agreed by the parents.

21 Upon their enrollment in school, the child(ren) shall reside with the Mother
22 Father, except for the following days and times when the child(ren) will reside
23 with or be with the other parent:

24 from _____ [day and time] to _____ [day and time]

25 every week every other week the first and third week of the month
 the second and fourth week of the month Other:

26 2.4 SCHEDULE FOR VACATIONS

27 WINTER VACATION

28 The child(ren) shall reside with the Mother Father during winter vacation, except
29 for the following days and times when the child(ren) will visit with the other parent:
30 _____
31 _____

1 SPRING VACATION

2 The child(ren) shall reside with the Mother Father during spring vacation, except
3 for the following days and times when the child(ren) will visit with the other parent:

4 SUMMER SCHEDULE.

5 The child(ren) shall reside with the Mother Father during summer vacation, except
6 for the following days and times when the child(ren) will visit with the other parent:

- 7 No change from schedule in 2.2 and 2.3.
8 Other: _____

9 2.5 SCHEDULE FOR HOLIDAYS.

10 The residential schedule for the child(ren) for the holidays listed below is as follows:

- 11 Does not apply.
12 Schedule is as follows:

| | With Mother (Specify Year <u>Odd/Even/Every</u>) | With Father (Specify Year <u>Odd/Even/Every</u>) |
|-------------------------------|---|---|
| 14 New Year's Day | _____ | _____ |
| 15 Treaty Day | _____ | _____ |
| 16 Presidents Day | _____ | _____ |
| 17 Memorial Day | _____ | _____ |
| 18 July 4th | _____ | _____ |
| 19 Labor Day | _____ | _____ |
| 20 Veterans Day | _____ | _____ |
| 21 Thanksgiving Day | _____ | _____ |
| 22 Christmas Eve | _____ | _____ |
| 23 Christmas Day | _____ | _____ |

- 24 For purposes of this parenting plan, a holiday shall begin and end as follows (set
25 forth times): _____
- 26 Holidays which fall on a Friday or a Monday shall include Saturday and Sunday.
- 27 Other: _____

28 2.6 SCHEDULE FOR SPECIAL OCCASIONS.

29 The residential schedule for the child(ren) for the following special occasions (for
30 example, birthdays) is as follows:

| | With Mother (Specify Year Odd/Even/Every) | With Father (Specify Year Odd/Even/Every) |
|--------------|---|---|
| Mother's Day | _____ | _____ |
| Father's Day | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

2.7 PRIORITIES UNDER THE RESIDENTIAL SCHEDULE.

- Does not apply.
- If the residential schedule results in a conflict where the children are scheduled to be with both parents at the same time, the conflict shall be resolved by priority being given as follows:
 - Rank the order of priority, with 1 being given the highest priority:

| | |
|-----------------------------------|-------------------------------|
| _____ regular schedule (2.2, 2.3) | _____ summer schedule (2.4) |
| _____ winter vacation (2.4) | _____ holidays (2.5) |
| _____ spring vacation (2.4) | _____ special occasions (2.9) |
 - Other:

2.8 TRANSPORTATION ARRANGEMENTS.

Transportation arrangements for the child(re), between parents are as follows:

2.9 OTHER:

III. RESTRICTIONS

3.1 RESTRICTIONS.

- There are no restrictions on the parents' residential time with the child(ren).
- The Mother's Father's residential time with the children shall be limited and following restrictions shall apply when the children spend time with this parent:

3.2 PARENTAL CONDUCT.

- Does not apply.
- The Mother's Father's residential time with the child(ren) shall be limited or restrained completely, and mutual decision-making and designation of a dispute resolution process other than court action shall not be required, because this

parent a person residing with this parent has engaged in the conduct contrary to the best interests of the child(ren) as follows.

Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions (this applies only to parents, not to a person who resides with a parent).

Physical, sexual or a pattern of emotional abuse of a child.

A history of acts of domestic violence as defined in Lummi Nation Code of Laws or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

3.3 OTHER FACTORS.

Does not apply.

The Mother's Father's involvement or conduct may have an adverse effect on the child(ren)'s best interests because of the existence of the factors which follow.

Neglect or substantial nonperformance of parenting functions.

A long-term emotional or physical impairment which interferes with the performance of parenting functions.

A long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions.

The absence or substantial impairment of emotional ties between the parent and child.

The abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development.

A parent has withheld from the other parent access to the child for a protracted period without good cause.

Other:

IV. DECISION MAKING

4.1 DAY-TO-DAY DECISIONS.

Each parent shall make decisions regarding the day-to-day care and control of each child while the child is residing with that parent. Regardless of the allocation of decision making in this parenting plan, either parent may make emergency decisions affecting the health or safety of the children.

4.2 MAJOR DECISIONS.

Major decisions regarding each child shall be made as follows:

Education decisions mother father joint

Non-emergency health care mother father joint

Religious upbringing mother father joint

1 _____ mother father joint
2 _____ mother father joint

3 4.3 RESTRICTIONS IN DECISION MAKING.

4 Does not apply

5 Sole decision making shall be ordered to the
6 Mother
7 Father

8 for the following reasons:

- 9 Both parents are opposed to mutual decision making.
10 One parent is opposed to mutual decision making, and such opposition is
11 reasonably based on the following criteria:
12 (a) The existence of a limitations in section III hereto;
13 (b) The history of participation of each parent in decision making;
14 (c) Whether the parents have demonstrated ability and desire to
15 cooperate with one another in decision making; and
16 (d) The parents' geographic proximity to one another, to the extent
17 that it affects their ability to make timely mutual decisions.

18 V. DISPUTE RESOLUTION

19 Disputes may be resolved through court action without a requirement that the parties first
20 submit disputes to the dispute resolution process.

21 Disputes between the parties, other than child support disputes, shall be submitted first to
22 (list person or agency):

23 _____, or
24 _____.

25 The cost of this process shall be allocated between the parties as follows:

_____ % Mother _____ % Father.

based on each party's proportional share of income based on child support
worksheets.

as determined in the dispute resolution process.

The dispute resolution process shall be commenced by notifying the other party by
written request sent certified mail or some other method of service that provides a proof
of service.

In the dispute resolution process:

(a) Preference shall be given to carrying out this Parenting Plan.

- 1 (b) Unless an emergency exists, the parents shall use the designated process to
 2 resolve disputes relating to implementation of the plan, except those related to
 3 financial support in a support order.
 4 (c) A written record shall be prepared of any agreement reached in counseling or
 5 mediation and of each arbitration award and shall be provided to each party.
 6 (d) If the court finds that a parent has used or frustrated the dispute resolution process
 7 without good reason, the court shall award attorneys' fees and financial sanctions
 8 to the other parent.
 9 (e) The parties have the right of review from the dispute resolution process to this
 10 court.

11 VI. OTHER PROVISIONS

- 12 There are no other provisions.
 13 There are other provisions that are attached to this parenting plan and incorporated
 14 herein.

15 VII. DECLARATION FOR PROPOSED PARENTING PLAN

- 16 Does not apply.
 17 (Only sign if you are proposing or agreeing to this parenting plan.) I declare under penalty of
 18 perjury this plan has been proposed in good faith and that the statements herein are true and
 19 correct.

20 _____
 21 Mother Date

22 _____
 23 Father Date

24 VIII. ORDER BY THE COURT

25 IT IS ORDERED, ADJUDGED AND DECREED that the parenting plan set forth above is
 adopted and approved as an order of this court.

WARNING: Violation of residential provisions of this order with actual knowledge of its terms
 is punishable by contempt of court and may be a criminal offense Lummi Nation Code of Law.
 Violation of this order may subject a violator to arrest. When mutual decision making is
 designated but cannot be achieved, the parties shall make a good faith effort to resolve the issue
 through the dispute resolution process.

If a parent fails to comply with a provision of this plan, the other parent's obligations under the
 plan are not affected.

Dated: _____

 Judge, Lummi Tribal Court

INFORMATION – ESTABLISHING A CHILD SUPPORT OBLIGATION

More information is located in Title 11.06 of the Lummi Code of Laws. A copy of that code is available at <http://narf.org/nill/Codes/lummi/index.htm> and also from the Lummi Nation Child Support Program.

The Lummi Nation Child Support Program has been established by the LIBC to provide services in establishing, modifying, and/or collecting a child support order. It's office is located in the Courthouse, but it is independent of the Court. LNCSP is prohibited from being involved in custody or visitation issues in a court proceeding.

Either the custodial or the non-custodial parent may apply for LNCSP services. LNCSP does not represent the requesting party or any other party to the action. The LNCSP has been given the duty of acting to facilitate the fair and consistent application of the child support guidelines and law to each person. It will collect financial information and file a petition with the court to establish a child support obligation that is consistent with the Lummi Child Support Guidelines.

You also have the right to proceed on your own to establish a child support obligation, and to request a deviation from the guidelines. There may also be free legal resources available in the community to assist a party with a child support case.

A. "ACCESS TO THE COURT - Instructions for Civil Cases"

Pick up a copy of this information sheet and review it for the general procedures to follow in civil cases.

B. Type of Proceeding

LCL 11.06.010(b) requires that: "Any child support award, including one entered in a separate action for divorce, dissolution, annulment, declaration of invalidity, separate maintenance, or any other civil action, must comply with [the Lummi Child Support Code]."

C. Jurisdiction of Court

In a child support proceeding, the Lummi Tribal Court has jurisdiction:

1. over a parent of a child, wherever the child is domiciled, if either parent of the child is a member, or eligible to become a member, of the Lummi Nation;
2. over a parent of an Indian child who is domiciled on the Lummi Reservation;
3. over a parent of a child who is in the custody of Lummi Children's Services; and
4. over a parent who has assets or the right to assets located within the boundaries of the Lummi Reservation, or income or the right to income generating from
 - A. The Lummi Business Council or any of its agencies, enterprises, or businesses; or
 - B. An employer operating within the boundaries of the Lummi Reservation.

D. Forms Packet – Initiating Child Support Proceeding

The forms packet (CD – P1) contains the following documents:

Summons – Child Support Petition
Petition for Child Support
Financial Declaration re: Child Support
Child Support Order

E. Lummi Child Support Guidelines

The LIBC has adopted Lummi Child Support Guidelines to be used in establishing a child support obligation. A copy is available at the Lummi Nation Child Support Program . Generally, the obligation is set as a percentage of the obligor's net income as follows:

- 20% for one child
- 27% for two children

33% for three children

An extra 3% for each additional child, up to a maximum of 40%

For each child over age 12, \$12 per child is added to the monthly obligation.

When there isn't sufficient income information available, the Guidelines provide for income to be "imputed" based on a scale stated in the guidelines.

F. Deviations from the Lummi Child Support Guidelines

The Court is restricted in deviating from the Lummi Child Support Guidelines except in certain circumstances. LCL 11.06.130 provides:

(a) The Court may order child support in an amount different from that which is provided in the Child Support Guidelines, only if:

- (1) The party requesting deviation shows by a preponderance of the evidence that application of the Guidelines is inappropriate, unjust or causes substantial hardship in the particular case;
- (2) Deviation is in the best interest of the child;
- (3) The Court enters written findings of the reasons justifying deviation under this subsection; and
- (4) The Court sets out in its order what the monthly support obligation would have been under the Guidelines without the deviation, and what the Court is ordering as the monthly support obligation with the deviation.

(b) In determining whether to deviate from the guidelines, the Court may consider hardship to the obligor's children from other relationships, to whom the obligor owes a duty of support and is actually providing the support, while considering the best interest of the child(ren) who is the subject of the proceeding. Any determination under this subsection shall include consideration of the total financial circumstances of each household, including all income from any source.

(c) Whenever application of the Child Support Guidelines set forth in this section requires a person to pay to another person more than forty percent (40%) of his or her Adjusted Gross Income for current support, there shall be a presumption of a substantial hardship.

(d) Unemployment or under-employment shall not be a cause for a finding of substantial hardship where the Court determines that the person contesting application of the Guidelines is voluntarily unemployed, voluntarily underemployed, or has declined to accept or pursue employment opportunities. In such cases, the Court shall attribute income as provided in LCL 11.06.060(f).

(e) The Court may deviate from the Guidelines based upon an agreement of the parties only if all of the following criteria are met:

- (1) The agreement is in writing,
- (2) All parties have signed the agreement with knowledge of the amount of support that would have been ordered by the Guidelines but for the agreement,
- (3) All parties have signed the agreement free of duress, coercion, threat, fraud, over-reaching, or improper promise on the part of any person; and
- (4) The Court makes written findings as required in subsection (a) of this section.

G. Minimum Monthly Child Support Obligation.

The minimum amount of monthly child support cannot be less than \$50.00 per child for children under the age of 12, and \$62.00 per child for children 12 years and older.

H. Modification of Child Support Order.

See the instructions and form packet for modification in Court Forms Packet CD – P2.

**LUMMI TRIBAL COURT
CHILD SUPPORT FINANCIAL WORKSHEET**

This is the FINANCIAL WORKSHEET of _____ (full name). [To the extent that you are aware of the other party's income, please also give information for that parent as well.] If you need more space, use a separate sheet and attach it to this form.

I. NON-CUSTODIAL PARENT'S INCOME (PERSON WHO WILL PAY SUPPORT)

CURRENT EMPLOYMENT (Please add new sheets if needed for other employers)

**** complete page 4 if you are unemployed**

1. EMPLOYER: _____

ADDRESS: _____

OCCUPATION: _____

Net wages per month: \$ _____ (If the income is seasonal, check this box [] and give annual totals)

Extra payments from employment (bonuses, commissions, etc.) per year: \$ _____

2. EMPLOYER: _____

ADDRESS: _____

OCCUPATION: _____

Net wages per month: \$ _____ (If the income is seasonal, check this box [] and give annual totals)

Extra payments from employment (bonuses, commissions, etc.) per year: \$ _____

Please list if you make any of the following payments, whether or not it is deducted from your paycheck. If you wish an amount to be deducted from your income in calculating income, please provide documentation of payments.

Mandatory union or professional dues \$ _____

Mandatory pension plan payments \$ _____

Premiums for the child(ren)'s medical and dental insurance: \$ _____

Child Support ACTUALLY paid for other child(ren) \$ _____

Name(s) of other child(ren): _____

Debt ACTUALLY paid for preexisting jointly acquired debt \$ _____

Court ordered spousal maintenance ACTUALLY paid \$ _____

ALL OTHER SOURCES OF INCOME: For the purpose of child support, income is defined as income from any source, including but not limited to salaries, wages, fishing income, commissions, stipends, bonuses, dividends, severance pay, per capita payments, interest, trust income, annuities, deferred compensation, refunds of deductions from income, capital gains, social security benefits, worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, pension benefits, insurance payments, retirement benefits, gifts, gaming winnings, prizes, and spousal maintenance.

FISHING INCOME:

Types of fisheries: _____

boat owner captain crew member if so, captain name(s): _____

boat name(s): _____ Estimated annual income: \$ _____

PER CAPITA

Name of tribe: _____ Estimated annual: \$ _____

FIREWORKS INCOME:

Name of Stand(s): _____

owner employee, if so, owner name(s): _____

Estimated annual income: \$ _____

TRUST INCOME

Name of trustee: _____ Estimated annual: \$ _____

OTHER INCOME: (e.g., unemployment, retirement, worker's compensation, disability, TANF or GA, Social Security, rentals, subsidies, grants, stocks, bonds, gaming, gifts, prizes) Describe and estimate value.

| Type | Source | Amount [] monthly [] yearly |
|-------|--------|-------------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

II. CUSTODIAL PARENT'S FINANCIAL INFORMATION (PERSON WHO WILL RECEIVE SUPPORT)

CURRENT EMPLOYMENT (Please add new sheets if needed for other employers)

1. EMPLOYER: _____

ADDRESS: _____

OCCUPATION: _____

Net wages per month: \$ _____ (If the income is seasonal, check this box [] and give annual totals)

Extra payments from employment (bonuses, commissions, etc.) per year: \$ _____

2. EMPLOYER: _____

ADDRESS: _____

OCCUPATION: _____

Net wages per month: \$ _____ (If the income is seasonal, check this box [] and give annual totals)

Extra payments from employment (bonuses, commissions, etc.) per year: \$ _____

OTHER INCOME

Please list all other sources of income (such as TANF or GA):

| Type | Source | Amount [] monthly [] yearly |
|-------|--------|-------------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

EXTRA EXPENSES FOR CHILD(REN) Please provide documentation of the amount.

Custodial Parent's monthly expenses, based on annual average, for the child(ren):

premiums for the child(ren)'s medical and dental insurance: \$ _____

costs in excess of \$100 not covered by insurance or IHS, per year per child, for medical, dental or counseling services for the child(ren): \$ _____

Services required for a child with physical and/or mental disability: \$ _____

Child care necessary to permit the custodial parent to work: \$ _____

IF YOU ARE CURRENTLY UNEMPLOYED, OR UNDEREMPLOYED, PLEASE COMPLETE THE FOLLOWING:

I. PAST TWO EMPLOYERS

1. From _____ (mo/yr) to _____ (mo/yr)

EMPLOYER: _____

ADDRESS: _____

OCCUPATION: _____

Net wages per month: \$ _____ (If the income is seasonal, check this box [] and give annual totals)

Extra payments from employment (bonuses, commissions, etc.) per year: \$ _____

Reason left employment:

2. From _____ (mo/yr) to _____ (mo/yr)

EMPLOYER: _____

ADDRESS: _____

OCCUPATION: _____

Net wages per month: \$ _____ (If the income is seasonal, check this box [] and give annual totals)

Extra payments from employment (bonuses, commissions, etc.) per year: \$ _____

Reason left employment:

II. JOB SKILLS AND TRAINING

Based on past work history and/or training, what types of jobs would you be eligible for?

III. JOB / TRAINING / INCOME SEARCH

Please describe efforts you are undertaking to earn income.

IV. BARRIERS TO EMPLOYMENT

Do you have any barriers to employment, such as a disability? If so, please describe and provide documentation of those barriers.

1
2
3 **IN THE TRIBAL COURT**
4 **FOR THE LUMMI NATION, WASHINGTON**

5 IN RE THE MARRIAGE OF:

Case No.: _____ CVDM _____

6 _____
Petitioner,

7 and

8 _____
Respondent.

SUMMONS – DISSOLUTION OF
MARRIAGE

9 TO THE RESPONDENT:

10 **YOU ARE HEREBY GIVEN NOTICE** that a petition has been filed in the above-named court to
11 dissolve the marriage. A copy is attached to this summons.

12 In order to defend against this action, you must respond to the petition by (1) filing a written
13 response with the court, and serving the petitioner as shown; or (2) contacting the Clerk of Court and
14 stating that you will appear in court to respond orally on the record. The Court prefers that you make
15 a written response. Your written response must state whether you oppose the petition and your
reasons. If you do not take either action within **21 days** after the date this summons was served on
you, the court may enter an order of default against you and, without further notice to you, grant the
request made in the petition.

16 For your convenience, an Answer Form is available at the Courthouse. If you wish to seek the
17 advice of an attorney in this matter, you should do so promptly so that your response, if any, may be
made by the deadline.

18 This summons is issued pursuant to Lummi Code of Laws 3.03.030 – 3.03.070.

19 Dated: _____

[PETITIONER'S SIGNATURE]

[PRINTED NAME]

20
21 FILE ORIGINAL OF YOUR RESPONSE
WITH THE CLERK OF THE COURT AT:

SERVE A COPY OF YOUR RESPONSE TO:

22 Lummi Nation Tribal Court
2616 Kwina Road
23 Bellingham, WA 98226

Petitioner:

Address

City, State, Zip Code

24
25 CIVIL SUMMONS – DISSOLUTION OF MARRIAGE

Court Form DM - 03 7/18/11

Lummi Tribal Court
2665 Kwina Road
Bellingham, WA 98226
(360) 312-2239

LUMMI TRIBAL COURT CONTACT INFORMATION SHEET

CASE NO. (Must be completed if one has been assigned): _____

YOUR INFORMATION : For the case that is pending in court, the court needs to have contact information for you, and enough identifying information so that your name is not confused with someone else's.

Name: _____
First Middle Last Suffix (e.g. Jr., Sr.)

DOB: ____ / ____ / ____

Address: _____
Street address

City State Zip code

Mailing address if different: _____

Phone Nos. _____
Home Work Cell

Message phone, if needed: _____

OPPOSING PARTY'S INFORMATION: To the extent that you have the information, the court needs to have contact information for the opposing party, and enough identifying information so that person is not confused with someone else

Name: _____
First Middle Last Suffix (e.g. Jr., Sr.)

DOB: ____ / ____ / ____

Address: _____
Street address

City State Zip code

Mailing address if different: _____

Phone Nos. _____
Home Work Cell

Message phone, if needed: _____

DATED

SIGNATURE

IT IS YOUR RESPONSIBILITY TO NOTIFY THE COURT OF ANY CHANGES IN YOUR ADDRESS OR CONTACT PHONE NUMBERS. IF YOU DO NOT, AND A DOCUMENT OR NOTICE IS SENT TO THE WRONG PLACE AS A RESULT, AN ACTION COULD BE TAKEN IN THE CASE WITHOUT YOUR KNOWLEDGE OR ABILITY TO OBJECT

CONTACT INFORMATION FORM

Court Form AA - 02 6/23/11

Lummi Tribal Court
2665 Kwina Road
Bellingham, WA 98226
(360) 312-2239

1
2
3 **IN THE TRIBAL COURT**
4 **FOR THE LUMMI NATION, WASHINGTON**

5 IN RE THE MARRIAGE OF:

Case No.: _____ CVDM _____

6 _____,

[] DECREE OF DISSOLUTION

7 Petitioner,

[] DECREE OF LEGAL SEPARATION

8 and

[] DECLARATION CONCERNING
VALIDITY OF MARRIAGE

9 _____,

10 Respondent

(With Dependent Child)

11
12 **JUDGMENT/ORDER SUMMARIES**

13 **Restraining Order**

14 Does not apply Restraining Order is set forth in Attachment B.

15 **Real Property Judgment:**

16 Does not apply Real Property Judgment is set forth in Attachment A.

17 **Money Judgment:**

18 Does not apply Money Judgment is set forth in Attachment A.

19 **FINDINGS OF FACT AND CONCLUSIONS OF LAW.**

20 **1. BASIS FOR FINDINGS**

21 The findings are based on:

- 22 agreement.
23 an order of default signed by the court on this date or dated ____/____/____.
24 a hearing before the court. The following persons attended:

- 25 Petitioner.
 Respondent.
 Other: _____

1 II. DECREE

2 IT IS THEREFORE DECREED that:

3 1. STATUS OF THE MARRIAGE.

- 4 The marriage of the parties is hereby dissolved.
5 The husband and wife are hereby legally separated.
6 The marriage of the parties is invalid under LCL 11.01.020 and/or 11.02.040.

7 2. AWARD OF PROPERTY.

- 8 Does not apply.
9 The community and separate property is awarded as set out in Attachment A to this
10 Decree.
11 The award of property is held in abeyance pending further order of this Court. A
12 hearing on that issue will be held on ____ / ____ / ____ at _____. The issues to be
13 determined at that time are: _____

14 3. PAYMENT OF LIABILITIES.

15 Unless otherwise provided herein, each party shall pay all liabilities incurred by that party
16 since the date of separation. The division of liabilities of the parties incurred prior to that
17 time is as follows:

- 18 Does not apply.
19 The community and separate liabilities of the parties are divided as set out in Attachment
20 A to this Decree.

21 4. HOLD HARMLESS PROVISION.

- 22 Does not apply.
23 For each separate or community liability that has been assigned in this decree to be paid
24 by one party, that party shall hold the other party harmless from any collection action
25 relating to that liability, including reasonable attorney's fees and costs incurred in defending
against any attempts to collect an obligation from the other party.

5. CHILD CUSTODY AND VISITATION

The parties shall comply with the Parenting Plan separately entered by the Court this date or
on ____ / ____ / _____. The Parenting Plan is incorporated as part of this decree.

6. CHILD SUPPORT.

- Child support shall be paid in accordance with the Child Support Order entered by the
Court this date or on ____ / ____ / _____. That order is incorporated as part of this decree.
 The issue of child support is reserved pending the entry of a child support order in
accordance with LCL 11.06, which may be retroactive to the filing of the petition in this

1 matter. Either party may apply to the Lummi Child Support Program, or another appropriate
2 child support program, for assistance in establishing the order.

3 7. ATTORNEY'S FEES, OTHER PROFESSIONAL FEES AND COSTS.

4 Does not apply.

5 Attorney's fees, other professional fees and costs shall be paid as follows:

6 8. NAME CHANGES.

7 Does not apply.

8 The wife's name shall be changed to _____.

9 The husband's name shall be changed to _____.

10 10. OTHER:

11
12
13
14
15
16
17
18
19
20 TO THE CLERK OF COURT: You shall notify the appropriate tribal and state agencies of this
21 dissolution decree as required by law.

22 Dated: _____

23 _____
24 Judge
25 Lummi Tribal Court

1 ATTACHMENT A – DIVISION OF PROPERTY AND LIABILITIES

2
3 1. REAL PROPERTY

- 4 The parties do not own real property.
5 The parties own the following real property, described as follows (separately describe if more than one property):

6 Assessor's property tax parcel or account number:

7 or

8 Legal description of the property awarded (including lot, block, plat, or section, township, range, county and state) is attached.

9 or

10 Address and description:
11

12 The real property is awarded as follows: _____
13

14 2. PERSONAL PROPERTY TO BE AWARDED THE HUSBAND

- 15 Does not apply.
16 The husband is awarded the following property, or percentage of property:

17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
24 _____
25 _____

1 6. LIABILITIES TO BE PAID BY THE WIFE.

2 Does not apply.

3 The wife shall pay the following community or separate liabilities:

4 Creditor

Amount

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 7. MONEY JUDGMENT

12 Does not apply.

13 Judgment is entered as follows:

14 A. Judgment creditor _____

15 B. Judgment debtor _____

16 C. Principal judgment amount \$ _____

17 D. Interest to date of judgment \$ _____

18 E. Attorney fees \$ _____

19 F. Costs \$ _____

20 G. Other recovery amount \$ _____

21 H. Principal judgment shall bear interest at _____ % per annum

22 I. Attorney fees, costs and other recovery amounts shall bear interest at _____ % per annum

23 J. Attorney for judgment creditor: _____

24 K. Attorney for judgment debtor: _____

25 L. Other

26 8. OTHER:

CONTINUING RESTRAINING ORDER.

Does not apply.

A continuing restraining order is entered as follows:

The husband wife is restrained and enjoined from disturbing the peace of the other party.

The husband wife is restrained and enjoined from going onto the grounds of or entering the home work place school of the other party.

The husband wife is restrained and enjoined from knowingly coming within or knowingly remaining within _____ (distance) of the home work place school of the other party.

The husband wife is restrained and enjoined from going onto the grounds of or entering the day care or school of the following named children: _____

The husband wife is restrained and enjoined from knowingly coming within or knowingly remaining within _____ (distance) of the day care or school of the following named children: _____

VIOLATION OF A RESTRAINING ORDER HEREIN WITH ACTUAL KNOWLEDGE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER LUMMI CODE OF LAWS 5.07.070 AND WILL SUBJECT THE VIOLATOR TO MANDATORY ARREST. LCL 5A. 02.070.



Certificate of Dissolution Declaration of Invalidity of Marriage or Legal Separation

Please Type or Print in Permanent Black Ink

| | | | | | |
|--|---|---|---|--|--|
| Court File Number | | _____ CVDM _____ | | State File Number | |
| 30. Husband's Social Security Number | Decree I certify the marriage of the persons named below was ordered as a... | | | | |
| | 1. <input type="checkbox"/> Legal Separation <input type="checkbox"/> Dissolution of Marriage | | 2. Date of Decree (Month/Day/4 Digit Year) | | 3. County of Decree Lummi Tribal Court |
| | <input type="checkbox"/> Declaration of Invalidity | | | | |
| | 4. Signature of Lummi Tribal Court Clerk X | | | | |
| | To be Completed by Petitioner's Attorney or PRO SE | | | | |
| 29. Wife's Social Security Number | Husband | | | | |
| | 5. Name | | 6. Date of Birth | | 7. Birth State (if not USA give Country) |
| | <small>First Middle Last</small> | | <small>Month Day 4 Digit Year</small> | | |
| | 8. Current Residence (Number and Street) | | 9. City/Town/Location | | 10. Inside City Limits <input type="checkbox"/> Yes <input type="checkbox"/> No |
| | | | 11. County | | 12. State |
| | Wife | | | | |
| | 13. Name | | 14. Maiden Name | | 15. Date of Birth |
| <small>First Middle Last</small> | | <small>Month Day 4 Digit Year</small> | | 16. Birth State (if not USA give Country) | |
| 17. Current Residence (Number and Street) | | 18. City/Town/Location | | 19. Inside City Limits <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 20. County | | 21. State | | | |
| 22. Place of this Marriage - County | | 23. State (if not USA give Country) | | 24. Date of this Marriage | |
| | | | | <small>Month Day 4 Digit Year</small> | |
| 25. Number of Children Born alive of this Marriage. | | 26. Petitioner <input type="checkbox"/> Husband <input type="checkbox"/> Wife <input type="checkbox"/> Both <input type="checkbox"/> Other (specify) | | | |
| 27. Name of Petitioner's Attorney or PRO SE | | | | | |
| 28. Petitioner's Address | | | | | |

Petitioner or Petitioner's Attorney – please complete sections 1 – 30.