

INFORMATION – ELDER ABUSE PROCEEDINGS

More information is located in Title 5B of the Lummi Code of Laws.

The Lummi Victim's of Crime Office (384-2285) may be able to assist in these proceedings.

These instructions apply when an elder / vulnerable adult unable to protect themselves from abuse or neglect because of mental or physical disability, illness or deficiency. Another way to get protection, if domestic violence is involved, may be through a domestic violence proceeding. In those proceedings, as well, the Lummi Victim's of Crime Office (384-2285) may be able to assist.

If the elder / vulnerable adult is capable of, and wishes to start such a proceeding for court intervention because the person is unable to protect themselves because of mental or physical disability, illness or deficiency, use the Form Packets EA – P3 and EA – P4.

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. Emergency Proceeding (Forms Packet EA – P1)

These forms can be used 1) when the elder is in need of immediate protection because of abuse or neglect by another person and/or 2) the elder is at risk of harm because of inability to care for him or herself.

- Petition for Emergency Order of Protection
- Notice of Emergency Order and Hearing
- Contact Information Form

1. Petition for Emergency Order of Protection

File this document with the Clerk of Court, along with the Contact Information Form. Request the Clerk's Office to provide it immediately to the judge to get an immediate order.

2. Notice of Emergency Order and Hearing

The Court must conduct a hearing within 72 hours after signing an emergency order for protection, or find good cause to justify a delay. A restraining order against another person cannot extend for more than 10 days without notice and an opportunity to be heard. Under the Lummi Code, the elder / vulnerable adult and any caretaker is made a party and has the right to notice of the entry of the order and further proceedings. In addition, the children and parent (if still surviving) has the right to notice. Those family members may participate unless the court finds it is not in the elder / vulnerable adult's best interest.

C. Ongoing Order for Protection / Guardianship (Forms Packet EA – P2)

Following the entry of an Emergency Order of Protection, one or both of the following need to be filed to obtain ongoing orders:

1. Proceeding for Order of Protection

This proceeding will generally come after the Emergency Proceeding, but if there is no emergency it can be filed alone. This procedure should be used if the elder / vulnerable adult has been abused or neglected by another person.

The forms packet (EA – P2) contains the following documents:

- Petition for an Order of Protection for an Elder / Vulnerable Adult
- Summons
- Motion for Temporary Orders
- Contact Information Form

File all four documents with the Clerk of Court's Office to commence the proceedings. Review and follow the procedures outlined in "ACCESS TO THE COURT - Instructions for Civil Cases" guide which is available at the Court.

2. Proceeding for Adult Guardianship Order

This type of proceeding can also be pursued. The instructions and forms for Adult Guardianship Proceedings are contained in Forms Packet GE – P1.

D. Temporary Orders to Prepare for Hearing

There are a number of orders that are needed in the space of time between the filing of the petition and the final order. The motion for temporary orders (Court Form EA – 07) starts this process. The motion can include: 1) request for appointment of a guardian ad litem to advise the court on the best interests of the elder or vulnerable adult; 2) request for appointment of an attorney to represent the position of the elder or vulnerable adult; 3) request that the court order an evaluation to determine the capacity or degree of incapacity of the elder / vulnerable adult; 4) request that the court order the Lummi Adult Protection Team to recommend a plan to the Court for the delivery of protective services that provide for the elder's / vulnerable adult's needs; and/or 5) entry of restraining orders against a person alleged to have abused or neglected the elder / vulnerable adult.

E. Guardian Ad Litem

A guardian ad litem appointed by the Court must meet, at a minimum, with the elder / vulnerable adult, family members, caregivers, and other persons or agencies that may be designated by the Court.

The standards for the selection of a guardian ad litem include requirements that the person:

- be familiar with the Lummi community;
- have training or experience working with elders or vulnerable adults;
- have demonstrated ability to exercise good judgment and discretion;
- have no prior history of violent crimes or crimes of dishonesty; and
- have no personal interest in the outcome of the proceeding.

F. Standard of Evidence

The Court must find clear and convincing evidence to enter an order under Title 5B (Elder Abuse Code). The standard is lower under the Domestic Violence Code (more likely than not).

G. Confidential Records

The Court may limit another party's access to medical or other confidential records as necessary to protect the health, safety, or welfare of the elder / vulnerable adult.

H. Hearing

The Court will conduct a hearing on the petition to determine whether the facts support a finding that the respondent is in need of protection. All relevant evidence that is reliable and trustworthy may be admitted and relied upon by the Court to the extent of its probative value, including hearsay that is corroborated by other evidence. The parties will be afforded an opportunity to examine and contest written reports, and cross-examine individuals whose testimony is presented. The Court may rely on conference telephone or other electronic devices that permit all those appearing or participating to hear and speak to each other.

The Court may exclude a person, including a party other than the elder / vulnerable adult, from court proceedings if the Court finds that the attendance of that person is not in the respondent's best interests. However, the Court cannot issue an order against another person unless that person has had an opportunity to be heard.

I. Review

The Court must review of the need to continue the protective order every 6 months or upon motion for good cause shown. The review must include an accounting for the elder or vulnerable adults funds, property, credit, services, or other resources if the Court has designated a protective payee or guardian with responsibility for safeguarding or expending those items. The Court must also review information about the elder or vulnerable adult including the services provided, mental and physical status, living conditions, and other information that may be helpful to the Court. At the review, the Court may extend or amend the protection order if cause is shown by clear and convincing evidence.

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4. Because of the incapacity, the elder / vulnerable adult is unable to consent to necessary services or to protective placement. The following efforts were made to obtain voluntary consent: _____

5. The Petitioner requests entry of the following emergency orders:

Allow the following specific emergency services to be provided to remove the emergency:

Allow the elder / vulnerable adult to be moved to a protective placement that is the least restrictive alternative under the circumstances. The petitioner proposes as a protective placement: _

The entry of a temporary restraining order against _____, who has abused or neglected the elder / vulnerable adult through the following conduct (*You do*

1 *not need to duplicate information already provided in Paragraph 1):*

2 _____
3 _____
4 _____
5 _____
6 _____
7 _____
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____

14 The temporary restraining order should include provisions enjoining and restraining the
15 person from:

16 CONDUCT

17 committing or threatening to commit further acts of abuse or neglect, as defined in Elder
and Vulnerable Adult Protection Code, against the elder/vulnerable adult.

18 removing the elder / vulnerable adult from Whatcom County; Other:

19 possessing any deadly weapon in his or her possession or control.

20 coming near and from having any contact whatsoever with the elder/vulnerable adult, in
21 person or through others, by phone, mail, or any means, directly or indirectly, except for
mailing of court documents.

22 retaliating against a person who reported or investigated the alleged abuse or neglect,
23 including intimidating, threatening to cause or causing bodily, emotional, property, or
financial harm.

24 other: _____

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

5 IN RE THE PROTECTION OF:

6 Case No.: _____ CVEA _____

7 _____,
Elder / Vulnerable Adult

8 **ORDER GRANTING EMERGENCY
PROTECTION**

9 _____,
Petitioner

10 The Court having reviewed the Petitioner's Petition for Emergency Protection Order, the file in
11 this matter, and any other evidence submitted,

12 IT IS HEREBY ORDERED that:

13 The Court denies the petition.

14 The Court grants the petition in whole or in part, and makes the following findings and
order:

15 1. There is clear and convincing evidence that:

16 A. The Elder / Vulnerable Adult is at risk of immediate and serious harm;

17 B. No competent person is authorized by law or court order to take necessary steps to protect
the Elder / Vulnerable Adult; and

18 C. The Elder / Vulnerable Adult is incapacitated and unable to consent to necessary services
19 or to protective placement.

20 2. The following specific emergency services shall be provided to remove the emergency:

21 As stated in the petition for emergency order

22 As follows: _____

23 _____
24 _____
25 _____

EMERGENCY ORDER FOR PROTECTION FOR AN
ELDER / VULNERABLE ADULT

Page 1

Court Form EA - 05 7/25/11

Lummi Tribal Court
2616 Kwina Road
Bellingham, WA 98226
(360) 384-2305

1 _____
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12 3. The elder / vulnerable adult shall be moved to the following protective placement that is the least restrictive alternative under the circumstances.

- 13 As stated in the petition for emergency order
14 As follows: _____
15 _____
16 _____
17 _____

18 4. _____ is restrained from:

19 CONDUCT

- 20 committing or threatening to commit further acts of abuse or neglect, as defined in Elder and Vulnerable Adult Protection Code, against the elder/vulnerable adult.
21 removing the elder / vulnerable adult from Whatcom County; Other: _____
22 _____
23 possessing any deadly weapon in his or her possession or control.
24 coming near and from having any contact whatsoever with the elder/vulnerable adult, in person or through others, by phone, mail, or any means, directly or indirectly, except for mailing of court documents.

1 retaliating against a person who reported or investigated the alleged abuse or neglect,
2 including intimidating, threatening to cause or causing bodily, emotional, property, or
3 financial harm.

4 other: _____

5 **PROPERTY**

6 transferring, removing, encumbering, concealing, or in any way disposing of any of the
elder / vulnerable adult's property.

7 assigning, transferring, borrowing, lapsing, surrendering or changing entitlement of any
insurance policies of the elder / vulnerable adult's.

8 entering into any future debt that encumbers the elder / vulnerable adult, whether
9 incurred by credit card or loan, security interest or mortgage.

10 **RESIDENCE**

11 residing in the elder / vulnerable adult's home located at : _____

12 5. The Court shall hold a preliminary hearing on this petition

13 on _____, at _____, which is within 72
14 hours, excluding weekends and holidays, after entry of this order.

15 on _____, at _____, because the following good cause
16 exists to grant a delay:
17 _____
18 _____

19 6. The petitioner shall make diligent efforts to make personal service of notice to the
20 elder/vulnerable adult, the primary caregiver, and any children or parents of the elder/vulnerable
21 adult. In the absence of children or parents, notice must be provided to the closest known
relative of the elder/vulnerable adult. If an emergency restraining order is entered herein, the
restrained person must receive notice and an opportunity to be heard within 10 days.

22 7. Any proceedings for permanent protection orders shall take place pursuant to a Petition for an
23 Order of Protection for an Elder / Vulnerable Adult (Court Form EA - 02) and/or a Petition for
24 Adult Guardianship (Court Form GS - 02).
25

1 8. Other:

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Dated this _____ day of _____, 20__

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Judge
Lummi Tribal Court

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

5 IN RE THE PROTECTION OF:

Case No.: ____ CVEA _____

6 _____
Elder / Vulnerable Adult

NOTICE OF EMERGENCY ORDER AND
HEARING –ELDER / VULNERABLE
ADULT PROCEEDING

7 _____
Petitioner

8
9 TO: Elder / Vulnerable Adult

Primary Caregiver: _____

10 Children and Parents: _____

11 Persons(s) alleged to have engaged in abuse or neglect: _____

12 **YOU ARE HEREBY GIVEN NOTICE** that an emergency protection order has been entered
13 regarding the elder/ vulnerable adult. A copy is attached to this notice.

14 A hearing is set on the temporary order on ____/____/____ at _____ to
15 determine if the provisions of the emergency should continue in effect.

16 The elder/ vulnerable adult and the primary caregiver are parties to the court proceeding. A family
17 member may also attend the proceeding unless the Court determines that the person does not have
sufficient ties with the elder/ vulnerable adult or that the attendance of the family member is not in
the elder/ vulnerable adult's best interests.

18 The Court may exclude a person, including a party other than the elder/ vulnerable adult, from court
19 proceedings if the Court finds that the attendance of that person is not in the elder/vulnerable adult's
20 best interests, but may not issue an order against a person alleged to have engaged in abuse or
neglect unless the person has had an opportunity to be heard

21
22 Dated: _____

[PETITIONER'S SIGNATURE]

23 _____
[PRINTED NAME]

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25 NOTICE OF EMERGENCY ORDER AND HEARING –
ELDER / VULNERABLE ADULT PROCEEDING

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

5
6 IN RE THE PROTECTION OF:

Case No.: _____ CVEA _____

7 _____,
Elder / Vulnerable Adult

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9 _____,
Petitioner

**PETITION FOR AN ORDER OF
PROTECTION FOR AN ELDER /
VULNERABLE ADULT**

10
11 Pursuant to Chapter 5B.03 of the Lummi Code of Laws, the Petitioner asks the Court to enter an
12 order granting protection to an elder / vulnerable adult. In support of this petition, the Petitioner
states as follows:

13 **I. IDENTIFICATION OF PETITIONER**

14 Name: _____
First Middle Last

15 The Petitioner is the Lummi Adult Protection Team a caretaker as defined in LCL
16 5B.01.020(4) a family member with the following
relationship: _____
17

18 **II. IDENTIFICATION OF ELDER / VULNERABLE ADULT**

19 Name: _____
First Middle Last

20 An elder age 55 or older; over the age of 18 and unable to protect himself or herself from
abuse or neglect because of mental or physical disability, illness or deficiency

21 Date of Birth: ____/____/____ Sex: _____

22 Residence: _____

23 Tribal affiliation: _____
24
25

1 The petitioner has participated in, or is aware of, the following criminal proceedings in
2 which the elder / vulnerable adult is named as the victim of violence, abuse, or neglect:

3

4

5

6

7

Defendant's Name and the Criminal Charges	Court	Case Number

8 VI. The elder / vulnerable adult suffers from the following to mental or physical disability,
9 illness or deficiency:

10 _____

11 _____

12 _____

13 _____

14 _____

15 VII. REPORT TO LUMMI ELDERS PROGRAM OR OTHER AGENCY

16 A report of abuse or neglect has been made related to the allegations in this petition to (check
17 any and all applicable):

- 18 Lummi Adult Protection Team
- 19 Lummi Elder's Program
- 20 Lummi Police Department
- 21 Lummi Victims of Crime office
- 22 the state aging and disabilities services program
- 23 the elder's or vulnerable adult's medical provider
- 24 Other: _____

25 VIII. ALLEGATIONS OF ABUSE AND NEGLECT

NOTE: for the purpose of the Elder and Vulnerable Adult Protection Code, the term "abuse or neglect"
includes abuse, sexual abuse, exploitation, neglect, or abandonment, as defined below:

"Abuse" means an intentional or negligent infliction of bodily injury; unreasonable confinement,
chemical or physical restraints; isolation; ridicule; coercion, harassment, intimidation; verbal abuse;
emotional abuse; or punishment of an elder or vulnerable person that results in physical harm, pain,

1 or mental anguish; when the elder or vulnerable adult is unable to express physical harm, pain, or mental
2 anguish, the abuse is presumed to cause physical harm, pain, or mental anguish if the abuse would cause
3 physical harm, pain, or mental anguish in a person of a like age or condition with the ability to express
4 physical harm, pain, or mental anguish

5 "**Sexual abuse**" means nonconsensual physical contact with an elder or vulnerable adult when
6 the person making the contact has the purpose of obtaining sexual gratification; consent is not
7 voluntary if it is obtained by threat, coercion, intimidation, or fraud, or the elder or vulnerable adult
8 is not competent or does not have the capacity to consent

9 "**Exploitation**" means the use of an elder or vulnerable adult's funds, property, credit, services,
10 or other resources through improper or unauthorized means including coercion, force, deception,
11 undue influence, violation of a fiduciary duty, or theft; exploitation includes the use of an elder's
12 home to engage in illegal activities; any use, for another person's profit or advantage, of the elder or
13 vulnerable adult's funds, property, credit, services, or other resources that leaves the elder or
14 vulnerable adult unable to pay for food, clothing, shelter, health care, or a safe environment is deemed
15 exploitation

16 "**Neglect**" means a caregiver failing to provide for the basic needs of an elder or vulnerable adult,
17 including food, clothing, shelter, a safe environment, medication, and health care, by not supplying
18 resources, care or supervision required to provide for these basic needs; a person interfering with delivery
19 of necessary resources and services to an elder or vulnerable adult; a required reporter failing to
20 report abuse or neglect of an elder or vulnerable person; or a caregiver failing to provide an elder
21 with services or resources necessary to the elder's practice of religion, tradition or custom

22 "**Abandonment**" means leaving the elder or vulnerable adult without means or ability to obtain one or
23 more of the basic necessities of life

24 The named person(s) has committed acts of abuse, sexual abuse, exploitation, neglect, or
25 abandonment as defined above, as follows (use additional pages if needed):

Specifically describe the most recent incident and state the location and approximate date:

The Petitioner incorporates by reference the allegations made in the Petition for Emergency
Order that was filed on ___/___/___.

The Petitioner additionally states: _____

1 _____
2 _____
3 _____
4 _____
5 _____
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9 _____
10 _____
11 _____
12 _____

13 Specifically describe prior incidents when the named person(s) committed abuse, sexual abuse,
14 exploitation, neglect, or abandonment as defined above, and state locations and approximate
15 dates (use additional pages if needed):

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Describe any medical treatment the Elder/Vulnerable Adult received for any abuse and/or neglect: _____

1 IX. FIREARMS OR OTHER WEAPONS

2 Does the named person(s) own or possess firearms? No Yes

3 Does the named person(s) use firearms, weapons or objects to threaten or harm the

4 Elder/Vulnerable Adult? No Yes If yes, please describe: _____

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 (continue on separate page if necessary)

13 X. SUBSTANCE ABUSE

14 Please indicate whether the named person(s)'s substance abuse is involved in the abuse and/or

15 neglect:

16 not aware of substance abuse abuse of alcohol abuse of drugs: _____

17 XI. OTHER FACTORS FOR THE COURT'S CONSIDERATION, IF ANY

18 _____

19 _____

20 _____

21 _____

22 REQUEST FOR RELIEF

23 I request entry of an order to:

24 Implement a plan to deliver protective services that provides for the elder/vulnerable
adult's needs; and implement an order that the Adult Protection Team recommend a plan.

25 Move the elder/vulnerable adult to a safe location.

- Appoint a representative, guardian, limited guardian, or a protective payee for the elder/vulnerable adult. A separate Petition for Guardianship has been filed.
- Require any party having a fiduciary duty to the elder/vulnerable adult to account for the elder/vulnerable adult's funds and or property.
- Require a person with a duty to the elder/vulnerable adult to fulfill that responsibility so that the elder/vulnerable adult's basic needs are met.
- Restrain the named person(s) from committing or threatening to commit further acts of abuse or neglect, as defined in Elder and Vulnerable Adult Protection Code, against the elder/vulnerable adult.
- Restrain the named person(s) from coming near and from having any contact whatsoever with the elder/vulnerable adult, in person or through others, by phone, mail, or any means, directly or indirectly, except for mailing of court documents.
- Exclude the named person(s) from the residence of the elder/vulnerable adult.
- Require compensatory damages to be paid by an abuser or neglectful person for injuries resulting from abuser's or neglectful person's wrongful act.
- Other:

DECLARATION

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

Dated: _____

 Petitioner

 Print or Type Name

 Address

 City, State, Zip Code

 Telephone Number

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

IN RE THE PROTECTION OF:

Case No.: _____ CVEA _____

Elder / Vulnerable Adult

**SUMMONS –ELDER / VULNERABLE
ADULT PROCEEDING**

Petitioner

TO: Elder / Vulnerable Adult

Primary Caregiver: _____

Children and Parents: _____

YOU ARE HEREBY GIVEN NOTICE that a petition has been filed in the above-named court regarding the protection of an elder or vulnerable adult. A copy is attached to this summons.

The elder / vulnerable adult and the primary caregiver, if any, are parties to the court proceeding. A family member may also attend the proceeding unless the Court determines that the person does not have sufficient ties with the elder / vulnerable adult or that the attendance of the family member is not in elder or vulnerable adult's best interests.

In order to defend against this action, you must respond to the petition by (1) filing a written response with the court, and serving the petitioner as shown; or (2) contacting the Clerk of Court and stating that you will appear in court to respond orally on the record. The Court prefers that you make 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.

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

Dated: _____

[PETITIONER'S SIGNATURE]

[PRINTED NAME]

**FILE ORIGINAL OF YOUR RESPONSE
WITH THE CLERK OF THE COURT AT:**

SERVE A COPY OF YOUR RESPONSE TO:

Lummi Nation Tribal Court
2616 Kwina Road
Bellingham, WA 98226

Petitioner: _____
Address _____
City, State, Zip Code _____

**CIVIL SUMMONS – ELDER ABUSE / VULNERABLE
ADULT PROCEEDING**

Lummi Tribal Court
2616 Kwina Road
Bellingham, WA 98226
(360) 384-2305

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

5 IN RE THE PROTECTION OF:

Case No.: _____

6 _____
7 Elder / Vulnerable Adult

MOTION FOR TEMPORARY ORDERS
PENDING FURTHER PROCEEDINGS

8 _____
9 Petitioner

- 10 APPOINTMENT OF GAL
11 APPOINTMENT OF ATTORNEY
 EVALUATION ORDER
 LAPT RECOMMENDATION
 RESTRAINING AND INJUNCTION
ORDERS

12 Pursuant to LCL 5B.03.050, I request Court to issue temporary orders, as check-marked, pending a
13 final proceeding in this matter.

14 A Petition for: Elder / Vulnerable Adult Protection Order and/or Adult Guardianship has
been filed on: ____/____/____.

15 APPOINTMENT OF GAL. I request the Court to appoint a guardian ad litem to advise the
16 court on the best interests of the elder / vulnerable adult. This request is based on the allegations
17 made in the underlying petition in this matter. Other grounds are as follows:

18 _____
19 _____
20 _____
21 APPOINTMENT OF ATTORNEY. I request the court to appoint an attorney to represent the
22 position of the elder / vulnerable adult. The basis for this request is:

1 EVALUATION ORDER. I request that the court order an evaluation to determine the capacity
2 or degree of incapacity of the elder / vulnerable adult. I request that the evaluation be conducted by:
3 _____, who has the following
4 credentials to conduct the evaluation: _____

5 The grounds for concern that justify such an evaluation are stated in the allegations made in the
6 underlying petition in this matter. Other grounds are as follows:

7 _____
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____

15 ORDER THAT APT RECOMMEND PLAN. I request that the court order the Lummi Adult
16 Protection Team to recommend a plan to the Court for the delivery of protective services that
provide for the elder's / vulnerable adult's needs.

17 RESTRAINING ORDER. I request that _____
18 be restrained and enjoined from

19 CONDUCT

20 committing or threatening to commit further acts of abuse or neglect, as defined in Elder
and Vulnerable Adult Protection Code, against the elder/vulnerable adult.

21 removing the elder / vulnerable adult from Whatcom County; Other:

22 possessing any deadly weapon in his or her possession or control.

23 coming near and from having any contact whatsoever with the elder/vulnerable adult, in
24 person or through others, by phone, mail, or any means, directly or indirectly, except for mailing
of court documents.

25 retaliating against a person who reported or investigated the alleged abuse or neglect,

1 including intimidating, threatening to cause or causing bodily, emotional, property, or financial
2 harm.

3 other: _____
4 _____
5 _____
6 _____

7 **PROPERTY**

8 transferring, removing, encumbering, concealing, or in any way disposing of any of the
elder / vulnerable adult's property.

9 assigning, transferring, borrowing, lapsing, surrendering or changing entitlement of any
insurance policies of the elder / vulnerable adult's.

10 entering into any future debt that encumbers the elder / vulnerable adult, whether incurred
by credit card or loan, security interest or mortgage.

11 **RESIDENCE**

12 residing in the elder / vulnerable adult's home located at : _____
13 _____

14 This request is based on the allegations made in the underlying petition in this matter. Other grounds
are as follows: _____
15 _____
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II. AFFIDAVIT

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

I have read the contents of this document and I swear under penalty of perjury under the laws of the Lummi Nation that the statements in this Motion and any attachments to this Motion are true and correct to the best of my knowledge, information and belief, formed after reasonable inquiry.

Date

Signature

Print or Type Name

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

Notary Public
My Commission Expires:

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

5 IN RE THE PROTECTION OF:

Case No.: _____

6 _____
Elder / Vulnerable Adult

TEMPORARY ORDERS PENDING
FURTHER PROCEEDINGS

7 _____
8 Petitioner

9
10 The Court having reviewed the Motion for Temporary Orders and the affidavit, verified petition, or
sworn testimony in support, the Court

11 Denies the motion

12 Grants the motion in whole or in part and finds:

13 1. The Elder / Vulnerable Adult has received notice of the Motion for Temporary Orders and
has had an opportunity to be heard.

14 2. The petitioner has made diligent efforts to make personal service of notice to the primary
caregiver, and any children or parents or, in their absence, to the closest known relative of the
elder/vulnerable adult.

15 3. Sufficient basis has been shown and it is just and proper to enter the following orders
16 pending the resolution of this case, unless earlier modified and set aside by this Court.

17 THEREFORE, IT IS HEREBY ORDERED that:

18 APPOINTMENT OF GAL. _____ is appointed to
19 advise the court on the best interests of the elder / vulnerable adult.

20 APPOINTMENT OF ATTORNEY. The Office of Public Defender is ordered to designate an
21 attorney who shall represent the position of the elder / vulnerable adult

22 EVALUATION ORDER. An evaluation of the Elder / Vulnerable Adult shall be conducted by:
23 _____ . The evaluation shall be
24 conducted as follows: _____

25
TEMPORARY ORDERS PENDING FINAL
PROCEEDINGS
Page 1

Court Form EA - 08 7/25/11

Lummi Tribal Court
2616 Kwina Road
Bellingham, WA 98226
(360) 384-2305

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ADULT PROTECTION TEAM PLAN. The Lummi Adult Protection Team is ordered to recommend a plan to the Court for the delivery of protective services that provide for the elder's / vulnerable adult's needs.

SUITABILITY OF NOMINATED GUARDIAN. _____, who has been nominated as a guardian for the Elder / Vulnerable Adult, shall submit a signed release so that the person's history may be checked by Lummi Family Services and appropriate criminal history databanks.

RESTRAINING ORDER. _____ has had notice and an opportunity to be heard regarding the request for a restraining order against that person. It is hereby ordered that the person is restrained and enjoined from

CONDUCT

committing or threatening to commit further acts of abuse or neglect, as defined in Elder and Vulnerable Adult Protection Code, against the elder/vulnerable adult.

removing the elder / vulnerable adult from Whatcom County; Other: _____

possessing any deadly weapon in his or her possession or control.

coming near and from having any contact whatsoever with the elder/vulnerable adult, in person or through others, by phone, mail, or any means, directly or indirectly, except for mailing of court documents.

Other: _____

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PROPERTY

- transferring, removing, encumbering, concealing, or in any way disposing of any of the elder / vulnerable adult's property.
- assigning, transferring, borrowing, lapsing, surrendering or changing entitlement of any insurance policies of the elder / vulnerable adult's.
- entering into any future debt that encumbers the elder / vulnerable adult, whether incurred by credit card or loan, security interest or mortgage.

RESIDENCE

residing in the elder / vulnerable adult's home located at : _____

This order shall remain in effect pending the resolution of this case, unless earlier modified and set aside by the Court. This temporary order terminates when the final order is entered or if the petition is dismissed.

Dated this _____ day of _____, 20__

Judge
Lummi Tribal Court

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

6 IN RE THE PROTECTION OF: w

Case No.: _____ CVEA _____

7 _____
8 Elder / Vulnerable Adult

9 **ORDER OF PROTECTION FOR AN**
10 **ELDER / VULNERABLE ADULT**

11 This matter came before the Court pursuant to a petition for an order for protection of an elder /
12 vulnerable adult. This order is based on :

13 an order of default.

14 an agreement of the parties.

15 a contested hearing at which testimony was presented by:

16 **THE COURT HEREBY ENTERS THE FOLLOWING FINDINGS OF FACT AND ORDER:**

17 1. The Court has jurisdiction over this matter for the reasons stated in the petition.

18 2. There is clear and convincing evidence that supports the findings made herein.

19 3. The above-named elder / vulnerable adult is unable to protect himself or herself from abuse or
neglect because of mental or physical disability, illness or deficiency, as follows:

20 As stated in the petition.

21 As follows: _____

24 4. _____ has
25 _____

ORDER OF PROTECTION FOR AN ELDER /
VULNERABLE ADULT

Page 1

Court Form EA - 09 7/25/11

Lummi Tribal Court
2616 Kwina Road
Bellingham, WA 98226
(360) 384-2305

1 abused or neglected the elder / vulnerable adult by committing acts of abuse, sexual abuse,
2 exploitation, neglect, or abandonment as defined in LCL 5B.01.020(a), as follows:

3 As stated in the petition.

4 As follows: _____
5 _____
6 _____
7 _____
8 _____

9 5. The following orders are entered for the protection of the elder / vulnerable adult:

10 A plan to deliver protective services is entered

11 In accordance with the plan recommended by the Adult Protection Team

12 As follows: _____
13 _____
14 _____
15 _____

16 The elder/vulnerable adult shall be moved to a safe location. At this time
17 _____ has been identified as a safe location.

18 _____ had a fiduciary duty to the
19 elder/vulnerable adult and is required to account for the elder/vulnerable adult's funds and or
20 property.

21 _____ has a duty to the
22 elder/vulnerable adult to fulfill responsibilities so that the elder/vulnerable adult's basic
23 needs are met and is ordered to:
24 _____
25 _____

26 _____ is restrained from:

27 committing or threatening to commit further acts of abuse or neglect, as defined in

1 Elder and Vulnerable Adult Protection Code, against the elder/vulnerable adult.

2 coming near and from having any contact whatsoever with the elder/vulnerable adult,
3 in person or through others, by phone, mail, or any means, directly or indirectly, except
4 for mailing of court documents.

5 retaliating against a person who reported or investigated the alleged abuse or neglect,
6 including intimidating, threatening to cause or causing bodily, emotional, property, or
7 financial harm.

8 other: _____
9 _____

10 **PROPERTY**

11 transferring, removing, encumbering, concealing, or in any way disposing of any of
12 the elder / vulnerable adult's property.

13 assigning, transferring, borrowing, lapsing, surrendering or changing entitlement of
14 any insurance policies of the elder / vulnerable adult's.

15 entering into any future debt that encumbers the elder / vulnerable adult, whether
16 incurred by credit card or loan, security interest or mortgage.

17 **RESIDENCE**

18 residing in the elder / vulnerable adult's home located at : _____
19 _____

20 6. The Court finds that _____ has
21 caused injuries resulting from that person's wrongful acts in the amount of \$ _____,
22 and orders that person to pay that amount in compensatory damages. The amount shall be paid as
23 follows: _____.

24 7. This order shall be reviewed within 6 months or for good cause shown. The Court shall
25 review information about the elder / vulnerable adult including the services provided, mental and
physical status, living conditions, and other information that may be helpful to the Court. At the
review, the Court may extend or amend the protection order if cause is shown by clear and
convincing evidence. The hearing date is set for ____ / ____ / ____ at _____.

8. Other:

Dated: _____

Judge
Lummi Tribal Court

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
2616 Kwina Road
Bellingham, WA 98226
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