

## INFORMATION – ESTABLISHING LEGAL PATERNITY FOR AN ADULT

*More information is located in Title 11.05 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.*

**These instructions apply when an adult is seeking an order establishing his or her birth father's legal paternity. For entry of a paternity order for a minor child, use the forms for "Paternity – Child."**

The Lummi Code of Laws allows an adult child to bring a paternity action. There is no time limit.

### **Disestablishing Paternity**

Paternity can only be disestablished through the state division of vital statistics – by application of the birth certificate father and acknowledgement of paternity of the birth father, or through court action. As a matter of policy, the Lummi Nation discourages the disestablishment of paternity that has earlier been established under operation of law. The person seeking to disestablish paternity is required to prove to the Court that it is in the best interests of the child to disestablish paternity. LCL 11.05.020(g).

## COURT ACTION TO ESTABLISH LEGAL PATERNITY

### **Jurisdiction of Court**

The Court has jurisdiction to establish legal paternity over a parent and an alleged parent of a child if:

- (A) either parent of the child is a member, or eligible to become a member, of the Lummi Nation; or
- (B) the child is one-quarter or more Lummi blood quantum.

### **DNA Evidence**

Paternity orders are most commonly based on DNA evidence. If the alleged father has an Indian blood quantum, the Enrollment Office will not consider that blood quantum unless a DNA test has confirmed paternity. However, if enrollment is not an issue, paternity can also be established by other types of evidence that are discussed in Chapter 11.05 of the Lummi Code of Laws.

The Court has the authority to require the DNA testing of the mother and alleged father. If the mother or alleged father is unavailable for testing, the Court may order DNA testing of other persons closely related to the unavailable person if the information from that person would assist in the determination of paternity. (The court procedures for establishment of paternity may be used even if an alleged father, or the mother, is dead or otherwise unavailable.)

In a contested paternity proceeding, the Court will require DNA testing, except that an alleged father may be excused from submitting to a DNA test if the Court determines that there is no reasonable possibility that sexual contact occurred at or near the time of conception.

The petitioner must initially pay for the cost of DNA testing. If the test confirms parentage, the disputing parent is responsible to reimburse the cost of testing.

There is a presumption of paternity if the DNA test shows a statistical probability, of at least 99.9%, that the alleged father is the biological father. The presumption may only be overcome by a court decree based on clear and convincing evidence.

Within 14 days of receipt of the DNA results, a party may request the Court to order additional DNA tests by other experts qualified in paternity testing. The requesting party must pay for the additional costs of testing in advance, but can be reimbursed depending on the results.

DNA testing is available through the Lummi Nation Child Support Program or the Enrollment Office, which have contracts with private labs for testing. Either office may require the payment of a fee. There are

also private labs that can directly provide the testing. The LNCSP can provide further information on that availability.

### **Forms Packet**

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

- Petition for Establishment of Paternity
- Summons – Alleged Father
- Summon - Mother
- Contact Information Sheet
- Motion for DNA testing; Order (if needed)
- Order Establishing Paternity

### **Procedures**

1. "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.

2. Prepare and file with the Clerk of Court's Office: "Petition for Establishment of Paternity"; "Summons"; and "Contact Information Sheet." With the petition, file a certified copy of the birth certificate, if available. Also file the Motion for DNA testing, if needed.

3. In addition to the petitioner, both the biological mother and the alleged father are parties to the case and must be served with the petition and summons. Specific summons forms are required for paternity cases, which are part of the forms packet. Use the instructions for service in the information sheet: "ACCESS TO THE COURTS – Information For Parties About Civil Cases".

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

5 IN RE THE PATERNITY OF:  
6 \_\_\_\_\_  
7 **An Adult Child**

Case No.: \_\_\_\_\_ CVPA \_\_\_\_\_

8 **PETITION FOR ORDER ESTABLISHING**  
**PARENTAGE OF ADULT CHILD**

9 I petition the court, pursuant to 11.05.060 of the Lummi Code of Laws, for an order establishing my  
10 paternity. In support of this petition, I state as follows:

11 **I. FACTUAL ALLEGATIONS**

12 **1.1 IDENTIFICATION OF PETITIONER:**

13 Name: \_\_\_\_\_

14 DOB: \_\_\_\_\_

15 Tribal Affiliation: \_\_\_\_\_

16 Address: \_\_\_\_\_

17 *(Petitioner may provide the address of any party under seal and request the court to keep it*  
18 *confidential under the standards set in LCL 11.06.043)*

19 **1.2 IDENTIFICATION OF ALLEGED FATHER:**

20 Name: \_\_\_\_\_

21 DOB: \_\_\_\_\_

22 Tribal Affiliation: \_\_\_\_\_

23 Address: \_\_\_\_\_

24 The alleged father has [ ] consented; [ ] not consented to the establishment of paternity.

25 **1.3 IDENTIFICATION OF NATURAL MOTHER**

Name: \_\_\_\_\_

DOB: \_\_\_\_\_

Tribal Affiliation: \_\_\_\_\_

Address: \_\_\_\_\_

The mother has [ ] consented; [ ] not consented to the establishment of paternity.

**1.4 MARITAL STATUS OF THE PARTIES.**

The mother and alleged father were never married.

The mother and alleged father were married from the period \_\_\_\_\_ to \_\_\_\_\_.

1 1.5 JURISDICTION.

2 This court has jurisdiction over this matter pursuant to Chapter 11.05.030 Lummi Code of  
3 Laws for the following reasons (*check all that are applicable*):

4  The  mother  alleged father is a member, or eligible to be a member, of the Lummi  
5 Nation.

6  The adult child is  enrolled, or could be enrolled if paternity is established, as a  
7 Lummi tribal member;  one quarter or more Lummi blood quantum;  an Indian,  
8 as that term is defined in LCL 8.01.010, who is domiciled on the Lummi Reservation.

9 1.6 EVIDENCE OF PATERNITY

10  The alleged father is presumed to be the father under LCL 11.05.015 because a genetic  
11 test (results attached) shows a statistical probability, of at least 99.9%, that the alleged  
12 father is the biological father.

13  A genetic test, which is separately requested, will show that the alleged father is the  
14 biological father. The basis for this belief is that:

15 \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_  
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23 \_\_\_\_\_  
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1 1.7 OTHER LEGAL PROCEEDINGS

2 Other legal proceedings concerning the paternity of the petitioner.

3  The petitioner has not participated in, and is not aware of, any other legal proceedings in  
4 which paternity was raised as an issue.

5  The petitioner is aware of the following legal proceedings in which paternity was raised  
6 as an issue:

Type of Proceeding	Court	Case Number

8 1.8 OTHER:

9  
10 II. RELIEF REQUESTED

11 The petitioner requests the Court to enter an order and judgment that:

12 1. \_\_\_\_\_ be declared to be the legal father of \_  
\_\_\_\_\_.

13 2. The birth certificate(s) of the petitioner be amended to identify the legal father.

14 3.  The petitioner's name be changed to \_\_\_\_\_

15 4. The Court grant such other relief as the Court may deem just and proper

16 5.  Other:

17 DECLARATION OF PETITIONER

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

23 Dated: \_\_\_\_\_

24 \_\_\_\_\_  
Signature of Petitioner

25 \_\_\_\_\_  
Print or Type Name

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

1 STATE OF WASHINGTON )  
2 ) ss:  
3 COUNTY OF WHATCOM )

4 On this day personally appeared before me \_\_\_\_\_, to me known to be the  
5 individual described in and who executed the within and foregoing instrument, and acknowledged that he/she signed the  
6 same as his/her free and voluntary act and deed, for the uses and purposes therein mentioned.

7 GIVEN under my hand and official seal this \_\_\_ day of \_\_\_\_\_, 20\_\_.

8 \_\_\_\_\_  
9 NOTARY PUBLIC in and for the State  
10 of Washington, residing at  
11 My appointment expires:

12 **CONSENT OF MOTHER (if granted)**

13 I have read this petition and agree that the Alleged Father should be declared to be the father of the  
14 named Adult Child. I waive any hearing in this matter. I declare under penalty of perjury all  
15 applicable civil and criminal laws that the contents of this petition are true.

16 Dated: \_\_\_\_\_

17 \_\_\_\_\_  
18 Mother

19 STATE OF WASHINGTON )  
20 ) ss:  
21 COUNTY OF WHATCOM )

22 On this day personally appeared before me \_\_\_\_\_, to me known to be the  
23 individual described in and who executed the within and foregoing instrument, and acknowledged that he/she signed the  
24 same as his/her free and voluntary act and deed, for the uses and purposes therein mentioned.

25 GIVEN under my hand and official seal this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

NOTARY PUBLIC in and for the State  
of Washington, residing at  
My appointment expires:

**CONSENT OF FATHER (if granted)**

I have read this petition and agree that I should be declared to be the father of the named Adult Child  
I waive any hearing in this matter. I declare under penalty of perjury all applicable civil and criminal  
laws that the contents of this petition are true.

Dated: \_\_\_\_\_

\_\_\_\_\_

Father

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STATE OF WASHINGTON )  
 ) ss:  
COUNTY OF WHATCOM )

On this day personally appeared before me \_\_\_\_\_, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he/she signed the same as his/her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State  
of Washington, residing at  
My appointment expires:

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

5 IN RE THE PATERNITY OF:

Case No.: \_\_\_\_\_ CVPA \_\_\_\_\_

6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 **An Adult Child**

**SUMMONS TO ALLEGED FATHER**

9 **NOTICE TO ALLEGED FATHER:**

10 You have been named in a petition alleging that you may be the father of the above named person.  
11 A judgment of paternity would legally designate you as the father of the person; grant parental rights  
12 to you; and create the right of inheritance for the person to your estate.

13 You may request genetic tests which will indicate the probability that you are or are not the father of  
14 the person. The Court will order genetic tests on request by you or any other party to the paternity  
15 case. Any person who refuses to take court-ordered genetic tests may be punished for contempt of  
16 court.

17 The petitioner has the burden of proving that you are the father. If a genetic test shows that the  
18 statistical probability of your being the father is 99.9% or higher, you are presumed to be the father,  
19 but at a hearing, you could present evidence showing by clear and convincing evidence that you  
20 should not be presumed to be the father because:

- 21 (1) You were sterile or impotent at the time of conception;  
22 (2) You did not have sexual intercourse with the mother of the adult child during the  
23 conception period; or  
24 (3) Another man is at least as statistically likely to have been the father of the adult child .

25 **You must respond to this summons and petition** by serving a copy of your written response on the  
person signing this summons and by filing the original with the Clerk of the Court. If you do not file  
a written response within **21 days** after the date this summons was served on you, the Court may  
enter an order of default against you, and the Court may, without further notice to you, enter a decree  
finding you to be the father. A default judgment may also be entered against you if you fail to  
appear at any later stage of the proceedings, including a court-ordered genetic test.

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.

This summons is issued pursuant to Lummi Code of Laws 11.05.060.

1 Dated: \_\_\_\_\_

\_\_\_\_\_  
[PETITIONER'S SIGNATURE]

2

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\_\_\_\_\_  
[PRINTED NAME]

4

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

SERVE A COPY OF YOUR RESPONSE ON:

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Lummi Nation Tribal Court  
2616 Kwina Road  
Bellingham, WA 98226

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

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

5 IN RE THE PATERNITY OF:

Case No.: \_\_\_\_\_ CVPA \_\_\_\_\_

6 \_\_\_\_\_  
7 An Adult Child

**SUMMONS TO MOTHER**

8 TO MOTHER OF ADULT CHILD :

- 9 1. The Petitioner has filed a Paternity Petition asking the Court to determine the parentage of the  
10 above-named person. A copy of the Petition accompanies this Notice.  
11 2. You must respond to this summons and the motion by filing a written response with the court,  
12 and serving the petitioner with the written response (see instructions below). If you do not file a  
13 written response within 21 days after the date this summons was served on you, the court may enter  
14 a default judgment against you granting for the relief requested in the Petition.  
15 3. If you fail to appear at any stage of the proceedings, including a scheduled genetic test, the Court  
16 may dismiss this action or may enter an order of default granting the relief as requested in the  
17 petition.  
18 4. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that  
19 your response, if any, may be made by the deadline.

20 This summons is issued pursuant to Lummi Code of Laws 11.05.060.

21 Dated: \_\_\_\_\_

\_\_\_\_\_  
[PLAINTIFF / PETITIONER'S SIGNATURE]

\_\_\_\_\_  
[PRINTED NAME]

22 FILE ORIGINAL OF YOUR RESPONSE  
23 WITH THE CLERK OF THE COURT AT:

SERVE A COPY OF YOUR RESPONSE ON:

24 Lummi Nation Tribal Court  
25 2616 Kwina Road  
Bellingham, WA 98226

Plaintiff / Petitioner:

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

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4 IN THE TRIBAL COURT  
FOR THE LUMMI NATION, WASHINGTON

5  
6 IN RE THE PATERNITY OF:

Case No.: \_\_\_\_\_ CVPA \_\_\_\_\_

7 \_\_\_\_\_  
8 An Adult Child

MOTION FOR GENETIC TESTING

9 The Petitioner requests this court for entry of orders requiring the below-named parties to submit to  
10 genetic testing. This motion is made in accordance with LCL 11.05.048, based upon the factual  
11 declaration made in the petition to establish paternity. The Lummi Code of Laws requires the court  
12 to order genetic testing in all contested paternity proceedings unless the Court determines that there  
13 is no reasonable possibility that sexual contact occurred at or near the time of conception. The  
14 Petitioner understands that the petitioner must initially pay for the cost of testing and make the pre-  
15 arrangements for the testing. The petitioner request an order as follows:

16  \_\_\_\_\_, the alleged father, shall submit to a buccal swab for DNA  
17 testing; comply with laboratory identification and testing procedures as directed during the  
18 testing process, and produce photo identification, by a date established by the court, at

19  The Lummi Nation Child Support Program, located in the court building at 2616 Kwina  
20 Rd., Bellingham, WA

21  The Lummi Nation Enrollment Office, located next to the court building at 2616 Kwina  
22 Rd., Bellingham, WA

23  Other:

24  \_\_\_\_\_, the mother, shall submit to a buccal swab for DNA  
25 testing; comply with laboratory identification and testing procedures as directed during the  
testing process, and produce photo identification, by a date established by the court, at

The Lummi Nation Child Support Program, located in the court building at 2616 Kwina  
Rd., Bellingham, WA

The Lummi Nation Enrollment Office, located next to the court building at 2616 Kwina  
Rd., Bellingham, WA

Other:

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DECLARATION

I swear under penalty of perjury under all applicable civil and criminal laws 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

\_\_\_\_\_

Petitioner

\_\_\_\_\_

Print or Type Name

I certify that I mailed/delivered/faxed this document this date to:	
_____	
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_____	_____
Date	Signed

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4 IN THE TRIBAL COURT  
FOR THE LUMMI NATION, WASHINGTON

5 IN RE THE PATERNITY OF:

6 \_\_\_\_\_,  
7 DOB: \_\_\_\_\_

Case No.: \_\_\_\_\_ CVPA \_\_\_\_\_

ORDER FOR GENETIC TESTING

8  
9 Having reviewed the petitioner's motion, the case record, and any opposition,

10 IT IS HEREBY ORDERED THAT:

11 1.  \_\_\_\_\_, the child's alleged father, shall submit to a  
12 buccal swab for DNA testing; comply with laboratory identification and testing procedures as  
13 directed during the testing process, and produce photo identification on or before  
14 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, at

15  The Lummi Nation Child Support Program, located in the court building at 2616 Kwina  
16 Rd., Bellingham, WA

17  The Lummi Nation Enrollment Office, located next to the court building at 2616 Kwina  
18 Rd., Bellingham, WA

19  Other:

20 2.  \_\_\_\_\_, the child's mother, shall submit to a buccal swab  
21 for DNA testing; comply with laboratory identification and testing procedures as directed during  
22 the testing process, and produce photo identification, on or before \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, at

23  The Lummi Nation Child Support Program, located in the court building at 2616 Kwina  
24 Rd., Bellingham, WA

25  The Lummi Nation Enrollment Office, located next to the court building at 2616 Kwina  
Rd., Bellingham, WA

Other:

3. The petitioner shall contact the facility(s) where the tests will take place, so that advance  
arrangements are made for payment and any other preparation needed.

1 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

2  
3 Judge  
Lummi Tribal Court

4  
5 **IN THE EVENT THE PARTY REFUSES OR FAILS TO APPEAR/COMPLY AS**  
6 **ORDERED, THE COURT MAY IMPOSE COERCIVE INCARCERATION AND FINES TO**  
7 **COMPEL COMPLIANCE. LCL 11.05.065.**  
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3 **IN THE TRIBAL COURT**  
4 **FOR THE LUMMI NATION, WASHINGTON**

5 IN RE THE PATERNITY OF:

6 Case No.: \_\_\_\_\_ CVPA \_\_\_\_\_

7 \_\_\_\_\_  
8 An Adult Child

ORDER ESTABLISHING PARENTAGE

9  
10 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

- 11 1. This Order is issued in compliance with LCL Chapter 11.05.
- 12 2. This court has jurisdiction over this matter pursuant to LCL 11.05.030 for the following reasons:
- 13  The  mother  alleged father is a member, or eligible to be a member, of the Lummi  
Nation.
- 14  The petitioner is  enrolled, or could be enrolled if paternity is established, as a  
15 Lummi tribal member;  one quarter or more Lummi blood quantum;  an Indian, as that term  
is defined in LCL 8.01.010, who is domiciled on the Lummi Reservation.
- 16 3. The petitioner's natural mother is:
- 17 Name: \_\_\_\_\_  
18 DOB: \_\_\_\_\_
- 19 4. The petitioner's natural father is:
- 20 Name: \_\_\_\_\_  
21 DOB: \_\_\_\_\_
- 22 5. The Court finds, by a preponderance of the evidence, that the above-named father is the  
23 father of the child(ren) for the following reason(s):
- 24  A genetic test shows the statistical probability that he is the father is 99.9% or higher,  
and he has not rebutted the results of the genetic test.
- 25  Other:
- 1.8 OTHER:



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ORDER

IT IS THEREFORE ORDERED that

- 1. The alleged father is the legal father of the petitioner.
- 2. The birth certificate(s) of the petitioner shall be amended to identify the legal father.
- 3.  The legal name of \_\_\_\_\_ is changed to \_\_\_\_\_ and the birth certificate shall be amended accordingly.
- 4. Other:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge  
Lummi Tribal Court