

PROBATE PROCEDURES

Please review Title 35, the Lummi Probate Code for the law and procedures governing probate proceedings. The code provides important deadlines and procedures which must be followed. A copy of that code is available at <http://narf.org/nill/Codes/lummi/index.htm>

Trust or Restricted Land

If there is any reason to believe that the Decedent had an interest in trust or restricted land (*title is held in trust or restricted fee status by the United States for the benefit of a member of a federally recognized Indian tribe or a tribe*), contact the Realty Division of the Lummi Planning Department.

Available Court Forms:

Forms Packet PB – P1 – WILL

Forms Packet PB – P2 – NO WILL

PB - 03	Probate Petition - Will
PB - 04	Probate Petition – No Will
PB - 05	Appointment of Personal Representative
PB - 06	Oath of Personal Representative
PB - 07	Letters of Administration
PB - 08	Order Initiating Probate
PB - 09	Notice of Appointment of Personal Representative
PB - 10	Probate Notice to Creditors
PB - 11	Creditor's Claims / Allowance or Rejection
PB - 12	Inventory of Estate
PB - 13	Petition for Distribution / Final Report of Personal Representative
PB - 14	Notice of Hearing on Petition for Distribution
PB - 15	Decree of Distribution
PB - 16	Receipt from Distributee
PB - 17	Request for Closure; Order

There are no court forms for the more extensive or complex types of proceedings that could occur under the Lummi Probate Code, such as will contests, family support, disputed claims against the estate, distribution to minors, and interim reports for estates taking more than one year to probate, or for permission to sell, mortgage, lease or exchange of the property.

Summary Probate of Exempt Estates

LCL 35.07.120 provides for a summary probate proceeding if the value of the estate does not exceed \$3,500 and the only beneficiaries of the estate are the surviving spouse and/or minor children of the deceased. Such estates are exempt from the claims of all general creditors.

Additional forms are available for that purpose, which are in Forms Packet PB – P3.

Information – Probate Proceedings

Court Form PB - 01 8/30/11

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

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

5
6 IN RE THE ESTATE OF:

Case No.: _____ CVPB _____

7 _____,
8 Deceased

PETITION FOR PROBATE OF WILL

9
10 I, _____, request that the court probate the
estate of the above-named person ("Decedent"). In support of this Petition, I state as follows:

11 I. DECEDENT

12 The Decedent died on ____/____/____.

13 II. WILL

14 The Decedent left a will, which is dated ____/____/____.

15 The original or a true and correct copy of the will, or document alleged to be the Last Will and
Testament is attached to this petition will be filed as soon as it is obtained.

16 If the original of the will is not available, the following efforts have been made to obtain the
original, and the following facts relate to its absence: _____
17 _____
18 _____

19 III. JURISDICTION OF THE LUMMI TRIBAL COURT

20 Pursuant to LCL 35.03.010, the Lummi Tribal Court has jurisdiction over the Decedent's estate
because *(check all that are applicable)*:

21 A. Tribal Status Requirement

22 The Decedent is a member of the Lummi Nation, with enrollment #: _____

23 The Decedent is eligible for enrollment as a member of the Lummi Nation because:

24 _____

25 The Decedent is a member of, or eligible to be a member of the following federally
recognized Indian Tribe: _____

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Name	Relationship
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Address

Name	Relationship
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Name	Relationship
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Name	Relationship
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Address

VI. DECEDENT'S PROPERTY

The following is a general description of all property belonging to the Decedent (*add pages as needed*):

A. PROPERTY NOT SUBJECT TO PROBATE:

1. The Decedent does does not have an interest in trust or restricted land. (*Title is held in trust or restricted fee status by the United States for the benefit of a member of a federally recognized Indian tribe or a tribe..*) If so, describe interest:

2. If Decedent was not domiciled on the Lummi Reservation, list all Personal Property here:

3. The Decedent does not does have ceremonial regalia, sacred objects, Indian finery, and Indian artifacts, which shall be separately distributed under the provisions of LCL 35.09.040.

Name	Relationship
Age (if under 18)	Address

VIII. OTHER INTERESTED PERSONS

A. Does the Decedent have a spouse, who is still surviving, but not named or provided for in the will?

No Yes. If yes, name and date of marriage: _____

B. Does the Decedent have a child(ren), who is still surviving, but not named or provided for in the will?

No Yes. If yes, name(s) and date(s) of birth: _____

IX. OTHER PROBATE PROCEEDINGS

There are no probate proceedings pending in any other jurisdiction.

Another probate proceeding has been filed in _____ Court.

The Personal Representative is _____
at address: _____

X. PERSONAL REPRESENTATIVE

I am named in the Will to act as the personal representative, to serve without bond. I am willing and qualified to act as Decedent's Personal Representative.

I am willing and qualified under LCL 35.07.020 to act as Decedent's Personal Representative. I have the following relationship with the Decedent: _____

No personal representative is named in the will.

The named personal representative is unable, unwilling, or unqualified to serve because:

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

IN RE THE ESTATE OF:

Case No.: _____ CVPB _____

Deceased

**APPOINTMENT OF PERSONAL
REPRESENTATIVE**

This matter having come before the Court for appointment of a Personal Representative for the above-named estate, the court enters the following findings:

1) QUALIFICATION OF APPLICANT

The applicant to be Personal Representative is qualified under LCL 35.07.020 and .030 to act as Decedent's Personal Representative. The applicant is over the age of 18, of sound mind, and has not been convicted of a felony or a misdemeanor involving moral turpitude.

The applicant is not qualified because: _____

2) ORDER OF ENTITLEMENT TO APPOINTMENT

The applicant comes within the following order of entitlement, under LCL 35.07.020, to be appointed as Personal Representative:

the person named to serve as the Personal Representative in the Decedent's last will and testament

surviving spouse, or a person requested by the surviving spouse to be appointed

next of kin:

child

parent

sibling

grandchild

nephew or niece

other: _____

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

5
6 IN RE THE ESTATE OF:

Case No.: _____ CVPB _____

7 _____
8 Deceased

LETTERS OF ADMINISTRATION

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10 Whereas _____ late
11 of _____ (address)
12 died on or about the ____ day of _____, 20__, leaving at the time of decedent's
13 death property in this jurisdiction subject to administration:

14 NOW, THEREFORE, KNOW ALL PERSONS by these presents that this Court hereby appoints

15 _____
16 administrator of said estate, and whereas said administrator has duly qualified, the court hereby
17 authorizes him to administer the estate according to law, including LCL 35.07.040.

18 Witness my hand and the seal of said Court this ____ day of _____, 20__

19
20 _____
21 Judge
Lummi Tribal Court

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LETTERS OF ADMINISTRATION

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

IN RE THE ESTATE OF:

Case No.: _____ CVPB _____

Deceased

ORDER INITIATING PROBATE

This matter having come before the court on ___/___/___ for review of the sufficiency of the Petition for Probate, and having examined the Petitioner under oath, the Court makes the following findings by a preponderance of the evidence:

1) The above-named decedent died:

leaving a valid will dated ___/___/____. The Decedent was of sound mind and was 18 years of age or older. It was properly attested to in accordance with LCL 35.06.020, or outside of the Lummi Indian Reservation, in the mode prescribed by law of the place where it was executed or of the Decedent's domicile. The original true and accurate copy of the will has been filed with the Court.

intestate, in that that no valid will has been presented to the Court.

2) The petition and other evidence before the court are sufficient to support the jurisdiction of the court.

IT IS THEREFORE ORDERED that

The Decedent's will is admitted to probate.

Having found that the Decedent died intestate, the following persons are identified as the Decedent's heirs at law:

The surviving spouse shall receive all of the Decedent's share of the net community estate and ___ of the net separate estate.

The following named issue of the Decedent shall receive the specified share of the estate, based on degree of kinship:

_____ share: _____

_____ share: _____

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

IN RE THE ESTATE OF:

Case No.: _____ CVPB _____

Deceased

NOTICE OF PENDENCY OF PROBATE
PROCEEDING AND APPOINTMENT OF
PERSONAL REPRESENTATIVE

PLEASE TAKE NOTICE

On ____/____/____, the Lummi Tribal Court began probate proceedings for the above-named estate. The undersigned was appointed as Personal Representative for the estate.

Any challenge to the Decedent's will, if any, must be made within four months of this notice. Otherwise, the approval or rejection of the will by the Court shall be final and binding. See Chapter 35.09 of the Lummi Code of Laws for those requirements.

DECLARATION OF MAILING

I declare under penalty of perjury under all applicable civil and criminal laws that I hand-delivered or mailed a copy of this document, along with a copy of the Order Initiating Probate, to each person whose names and addresses are known to me, and who is listed in the Petition for Probate filed in this matter as a surviving family member and/or as a beneficiary of the will, and to each beneficiary or transferee of a non-probate asset of the Decedent. If the Decedent had a will, a copy was provided to each named beneficiary.

List (add additional page if needed):

Name: _____

Address _____

Name: _____

Address _____

Name: _____

Address _____

NOTICE OF APPOINTMENT OF PERSONAL
REPRESENTATIVE

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

IN RE THE ESTATE OF:

Case No.: _____ CVPB _____

_____,
Deceased

PROBATE NOTICE TO CREDITORS

The Personal Representative will give notice to the creditors of the Decedent, as follows:

- 1) The notice shown below shall be published once a week for three consecutive weeks in the following newspaper of general distribution serving the Lummi Indian Reservation and Whatcom County: _____.
- 2) The notice is as follows:

ESTATE OF : _____

The Personal Representative named below has been appointed as Personal Representative of this estate. Any person having a claim against the Decedent must present the claim in the manner as provided in Chapter 35.08 of the Lummi Nation Code of Laws by serving on or mailing to the personal representative or the Personal Representative's attorney at the address stated below a copy of the claim and filing the original of the claim with the court. The claim must be presented within sixty days after the date of first publication of the notice as provided in LCL 35.08.040. If the claim is not presented within this time frame, the claim is forever barred, except as otherwise provided in LCL 35.08.030. This bar is effective as to claims against both the Decedent's probate and nonprobate assets.

Date of First Publication: _____ / _____ / _____

Personal Representative : _____

Attorney for Personal Representative (if applicable): _____

Address for Mailing or Service: _____

Court's Name: Lummi Tribal Court
Court's Address: 2616 Kwina Rd., Bellingham, WA 98226

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

IN RE THE ESTATE OF:

Case No.: _____ CVPB _____

Deceased

**PROOF OF GIVING AND PUBLICATION
OF NOTICE TO CREDITORS**

The undersigned hereby gives notice that publication notice was made to creditors in compliance with the LCL 25.08.010 – 020 as follows:

1) The notice was published in the following newspaper of general distribution serving the Lummi Indian Reservation and Whatcom County:

_____.

2) The notice ran once a week for three consecutive weeks, beginning on ___/___/___

3) A copy of the notice published in the newspaper and its Affidavit of Publication are attached.

Dated this _____ day of _____, 20__.

Personal Representative

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

6 _____,
7 **Plaintiff / Petitioner,**
8 vs.
9 _____,
10 **Defendant / Respondent**

Case No.: _____ CVPB _____

CREDITORS CLAIM; ALLOWANCE OR REJECTION

11 Claimant's Name: _____

12 Address: _____

13 If Claim made by Claimant's Agent:

14 Claimant's Name: _____

15 Address: _____

16 Nature of Agent's Authority: _____

17 Amount of Claim: \$ _____

Attach written proof of Creditor's Claim.

18 Facts and circumstances surrounding the Claim: _____

19 _____

20 _____

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

IN RE THE ESTATE OF:

Case No.: _____ CVPB _____

Deceased

INVENTORY & APPRAISEMENT

I declare under penalty of perjury under all applicable civil and criminal laws that the following is true and correct to the best of my knowledge, information, and belief, formed after diligent inquiry.

1. The assets and liabilities shown below are a true inventory and appraisal of all the Decedent's property at the time of death that has come to the possession or knowledge of the Personal Representative, and is subject to the jurisdiction of the above Court. *(Include additional pages as needed)*

2. Each item subject to probate is listed along with its fair net value (after subtraction of identified encumbrance, lien, or other secured charge against that item):

Real Estate (do not include trust property) by legal description	
Mobile or modular home	
Vehicles and boats	
Bank accounts and money	

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Proportionate share in any partnership, but no inventory of the partnership property is required	

3. The following is a list of the Decedent's nonprobate assets (*beneficial interest passes on the Decedent's death under a written instrument or arrangement other than the Decedent's will, e.g.: joint tenancy with right of survivorship, joint bank account with right of survivorship, payable on death or trust bank account, transfer on death security or security account, deed or conveyance if possession has been postponed until the death of the person, trust of which the person is grantor and that becomes effective or irrevocable only upon the Decedent's death, community property agreement, individual retirement account or bond, or similar document*) :

4. I understand that I have the duty to amend the inventory and appraisal within 30 days of acquiring knowledge of any additional property of the estate.

5. I have provided Notice of Filing as required by LCL 35.07.110(b) with any heir, legatee, devisee, unpaid creditor who has filed a claim, or beneficiary of a nonprobate asset.

Dated: _____

Personal Representative

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4 IN THE TRIBAL COURT
FOR THE LUMMI NATION, WASHINGTON

5
6 IN RE THE ESTATE OF:

Case No.: _____ CVPB _____

7 _____,
8 Deceased

FINAL REPORT OF PERSONAL
REPRESENTATIVE AND PETITION FOR
DISTRIBUTION

9
10 The Personal Representative makes the following final report and petitions for a Decree of
Distribution of the above-named estate as follows (*attach additional pages if needed*):

11 1. Listed are the moneys collected and any property which may have come into the hands of the
12 Personal Representative since the last report (*or Inventory and Appraisal if no report was later*
13 *filed*):

14
15 2. The following is the debts paid and the condition of the estate:

16 Each creditor's claim that was justly due and properly presented as required by law has
17 been paid or otherwise disposed of by agreement with the creditor.

18 The following debts must be reviewed by the Court for determination of payment:

19
20
21 3. The following is a particular description of all the property of the estate remaining undisposed
22 of:

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FINAL REPORT OF PERSONAL REPRESENTATIVE
AND PETITION FOR DISTRIBUTION

Page 1

Court Form PB - 13 8/30/11

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

1 5) The Personal Representative has had the following expenses in administering the estate.
2 Receipts or cancelled checks are attached for the expenses. (*Expenses up to \$20.00 may be*
3 *submitted without receipt under the oath below, but the total of unreceipted expenses cannot*
4 *exceed \$300.00*)

5 Amount Purpose

6
7 6) The estate is ready to be settled.

8 7) Other (*such other matters as may inform the Court as to the condition of the estate*):
9

10 WHEREFORE,

11 The Personal Representative requests that:

- 12 1) The Court issue a Writ for the settlement of the estate and distribution of the property under
13 the will, or intestacy, as applicable.
14 2) That the Court provide for reimbursement of the Personal Representative's expenses out of
15 the proceeds of the estate before distribution
16 3) That the Court discharge the Personal Representative upon distribution of the property.

17 III. DECLARATION

18 I swear under penalty of perjury under all applicable civil and criminal laws that the statements in
19 this Final Report and Petition for Distribution are true and correct to the best of my knowledge,
20 information and belief, formed after reasonable inquiry.

21 _____
22 Date

23 _____
24 Personal Representative

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

27 _____
28 Notary Public

29 My Commission Expires:

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

6 IN RE THE ESTATE OF:

Case No.: _____ CVPB _____

7 _____
8 Deceased

NOTICE OF HEARING ON FINAL REPORT
OF PERSONAL REPRESENTATIVE AND
REQUEST FOR DISTRIBUTION

9
10 TO: ANY HEIR, LEGATEE, DEVISEE, OR DISTRIBUTE

11 You are hereby given Notice that a Final Report of Personal Representative and Request for
12 Distribution has been filed in the above-named case and that the Court shall conduct a hearing
13 whether to approve the Report, find the estate ready to be closed, determine whether debts have
14 been paid, adjudicate the persons who are entitled to the remainder of the estate, and order the
15 distribution of the property to those entitled to it. Any person interested may file objections to the
16 final report and petition for distribution, or may appear t the hearing and present objections thereto.

17 **Hearing date and time:** _____ at _____. *(The date must be at*
18 *least 20 days before the Notice of Hearing is mailed.)*

19 Dated: _____

20 _____
21 Personal Representative

22 NOTICE OF HEARING ON FINAL REPORT AND PETITION
23 FOR DISTRIBUTION

24 Page 1

25 Court Form PB -14 8/30/11

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

1 Name: _____

2 Address _____

3 Name: _____

4 Address _____

5 Name: _____

6 Address _____

7 Name: _____

8 Address _____

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10 Name: _____

11 Address _____

12 Name: _____

13 Address _____

14

15 Name: _____

16 Address _____

17 Name: _____

18 Address _____

19

20 _____ Date _____ Personal Representative _____

21

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

24 _____
Notary Public

25 My Commission Expires:

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

6 IN RE THE ESTATE OF:

Case No.: _____ CVPB _____

7 _____
8 Deceased

DECREE OF DISTRIBUTION

9 This matter having come before the court on ___/___/___ for review of the sufficiency of the
10 Final Report of the Personal Representative, and the Petition for Decree of Distribution, and the
11 court having heard from the Personal Representative, and considered any objections and
12 evidence provided, the Court makes the following findings and decree:

- 13 1) The actions taken by the Personal Representative in administrating the estate are appropriate.
14 2) The debts of the estate are paid or have been barred under LCL 35.08.030..
15 The Personal Representative shall pay the following additional claim(s):
16 3) The Final Report of the Personal Representative is approved.
17 4) The estate is ready to be settled.
18 5) The expenses of the Personal Representative are approved in the amount of \$_____.

19 IT IS THEREFORE ORDERED AND DECREED that the following persons are adjudged to be
20 entitled to the residue of the estate, which shall be distributed as follows:

21 _____ share: _____
22 _____ share: _____
23 _____ share: _____
24 _____ share: _____
25 _____ share: _____

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

5
6 IN RE THE ESTATE OF:

Case No.: _____ CVPB _____

7
8 _____,
Deceased

RECEIPT FROM HEIR OR BENEFICIARY

9
10 As an heir or beneficiary of the above-named estate, I acknowledge that I have received
11 all the property from the Decedent's estate to which I am entitled under the Court's Decree of
12 Distribution.

13
14 Dated: _____

15 _____
Heir or Beneficiary

16 _____
Print or Type Name

17 _____
Address

18 _____
City, State, Zip Code

19 _____
Telephone Number

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RECEIPT FROM HEIR OR BENEFICIARY
Page 1

Court Form PB - 16 8/30/11

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

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

IN RE THE ESTATE OF:

Case No.: _____ CVPB _____

Deceased

REQUEST FOR CLOSURE; ORDER
CLOSING PROBATE

I hereby request closure of probate without further hearing, as provided in the Court's Decree of Distribution.

I declare under penalty of perjury under all applicable civil and criminal laws that the following is true and correct to the best of my knowledge, information, and belief, formed after diligent inquiry.

1. Each Creditor's Claim that was justly due and properly presented as required by law has been paid or otherwise disposed of by agreement with the creditor.

2. I have made final distribution from the estate based on the Decree of Distribution entered by the Court. Attached are receipts, or other sufficient proof, showing that each distributee has received all of his or her respective distribution from the estate.

3. The administration of the above-named estate is completed.:

Dated: _____

Personal Representative

ORDER

The Court having reviewed the proof of distribution and being satisfied thereof,

IT IS HEREBY ORDERED that this probate proceeding is closed. The Personal Representative is discharged from further responsibility for administering the estate

Dated: _____

Judge
Lummi Tribal Court

REQUEST FOR CLOSURE; ORDER CLOSING
PROBATE

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