

CHILD CUSTODY CASE INSTRUCTIONS

These instructions and forms are to be used when a parent of a child(ren) is seeking custody or visitation from another parent.

Step 1. Complete the Petition for Child Custody.

NOTE: Lummi Child Welfare must be added as a party and agree to the filing of the petition if the child(ren) is in a current child dependency case.

Step 2. Fill-out the *Summons – Child Custody/Visitation*.

Step 3. Fill-out the *Motion for Temporary Custody Order* if asking for temporary custody pending the final custody decree and parenting plan.

Step 4. Submit the documents to the Court Clerk's Office.

- Ask the Court Clerk for copies of the documents you file.
 - One copy for the petitioner.
 - Obtain a copy to be served on each party to the case.

Step 5. Service of Process. If the other parent has not signed the *Respondent's Agreement to Petition for Child Custody* in the *Petition for Child Custody*, then the respondent-parent must be served with the summons and petition for child custody (and all other documents). The petitioner is responsible for service of documents.

Service may be accomplished by certified mail, return receipt requested, or by personal service by any person over the age of eighteen (18) years who is competent to testify and is not a party to the action, or by publication under the circumstances set out in Lummi Code of Laws §3.03.040.

Step 6. Attend the court hearings. Once you are given a court date, please bring all of your documents and evidence with you to each hearing.

**LUMMI TRIBAL COURT
LUMMI NATION, WASHINGTON**

_____, Petitioner	No. _____ CVCC _____
vs.	PETITION FOR CHILD CUSTODY
_____ Respondent.	

Use this form to ask for child custody and a parenting plan.

1. **My name is:** _____
- I am an enrolled member of the Lummi Indian Tribe. Yes No
- I am a resident of the Lummi Indian Reservation. Yes No

2. **Respondent's name is:** _____
- Respondent is an enrolled member of the Lummi Indian Tribe. Yes No
- Respondent is a resident of the Lummi Indian Reservation. Yes No

3. Children

Respondent and I are the parents of the following child(ren): (Add additional pages if needed.)

1. Child's Name	Age	Date of Birth	Child Lives with:
			<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
Child is an enrolled member of the Lummi Indian Tribe. Yes <input type="checkbox"/> No <input type="checkbox"/>	Child is a permanent resident of the Lummi Reservation. Yes <input type="checkbox"/> No <input type="checkbox"/>		

2. Child's Name	Age	Date of Birth	Child Lives with:
			<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
Child is an enrolled member of the Lummi Indian Tribe. Yes <input type="checkbox"/> No <input type="checkbox"/>		Child is a permanent resident of the Lummi Reservation. Yes <input type="checkbox"/> No <input type="checkbox"/>	

3. Child's Name	Age	Date of Birth	Child Lives with:
			<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
Child is an enrolled member of the Lummi Indian Tribe. Yes <input type="checkbox"/> No <input type="checkbox"/>		Child is a permanent resident of the Lummi Reservation. Yes <input type="checkbox"/> No <input type="checkbox"/>	

4. Child's Name	Age	Date of Birth	Child Lives with:
			<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
Child is an enrolled member of the Lummi Indian Tribe. Yes <input type="checkbox"/> No <input type="checkbox"/>		Child is a permanent resident of the Lummi Reservation. Yes <input type="checkbox"/> No <input type="checkbox"/>	

4. **Statement of Facts that Justify the Granting of the Relief Requested** (Check all that apply and provide a brief explanation, add additional pages if needed.)

The wishes of the child's parent or parents as to custody and visitation privileges.

The wishes of the child as to custody and visitation privileges.

The interaction and interrelationship of the child with his/her parent or parents, siblings, and any other person who may significantly affect the child's best interests, including, but not limited to, the child's extended family.

1 The child's adjustment to his/her home, school, and community.

2 _____
3 _____
4 Availability of extended family to assist in the care and custody.

5 _____
6 The mental and physical health of all individuals involved.

7 _____
8 The extent of the participation of the parties in tribal cultural activities.

9 _____
10 _____
11 5. **Domestic Violence is a factor for the court to consider in awarding custody and visitation.** (Check if applicable.)

12 In every proceeding where custody or visitation of a child is in dispute, a determination by
13 the Court that domestic violence has occurred: (1) Raises a rebuttable presumption that it is
14 detrimental and not in the best interest of the child to be placed in sole custody, joint legal
15 custody or joint physical custody with the perpetrator of domestic violence.(2) Raises a
16 rebuttable presumption that it is in the best interest of the child to reside with the parent who
17 is not a perpetrator of domestic violence, in the location of that parent's choice. (See LCL
18 5A.05.050)

19 I request no visitation for the respondent because there is no adequate provision for the
20 safety of the child and the petitioner, a victim of domestic violence, that can be made.

21 **OR**

22 I request the following Conditions of Visitation because of domestic violence committed
23 by the respondent. (See LCL 5A.05.070) (Check all that apply.)

24 (1) exchange of a child is to occur in a protected setting;

25 (2) visitation is to be supervised by another person or agency;

(3) the perpetrator of domestic violence is to attend and complete, to the satisfaction
of the Court, and as a condition of the visitation, a program of counseling for perpetrators
of domestic violence, or some other designated counseling;

(4) the perpetrator of domestic violence is to abstain from possession or consumption
of alcohol or controlled substances during the visitation and for 24 hours preceding the
visitation;

- (5) the perpetrator of domestic violence is to pay a fee to defray the costs of supervised visitation;
- (6) overnight visitation is prohibited;
- (7) the perpetrator of domestic violence is to post bond for the return and safety of the child; and
- (8) the perpetrator of domestic violence is to comply with any other condition that is deemed necessary to provide for the safety of the child, the victim of domestic violence, or any other family or household member.

6. Relief Requested

I am asking the Court to: (Check all that apply.)

- Grant me custody of the child(ren).
- Grant the respondent reasonable visitation.
- Deny the respondent visitation, after a hearing, if the court finds that visitation would endanger the child(ren)'s physical, mental, or emotional health.
- Grant my proposed Parenting Plan.

Temporary Custody

- I am not requesting temporary custody of the child(ren).
- I am requesting temporary custody of the child(ren) until this proceeding is concluded and a motion for temporary custody and a supporting affidavit have been filed with the Petition for Custody.

CONFIDENTIALITY OF PETITIONER'S ADDRESS

- I, the Petitioner, am a victim of domestic violence and request the court order the address of the child(ren) and the petitioner be kept confidential. (Check if applicable.)

DECLARATION

I affirm that by signing this petition 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, and to the best of my knowledge, information, and belief, formed after reasonable inquiry.

Dated: _____

Signature of Petitioner

Print or Type Name

RESPONDENT'S AGREEMENT TO PETITION FOR CHILD CUSTODY

I, the Respondent, affirm that by signing and joining this petition 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, and to the best of my knowledge, information, and belief, formed after reasonable inquiry.

I agree to the Petitioner's proposed Custody Decree and Parenting Plan filed with this *Petition for Child Custody* and waive receiving further notice of hearings in this case.

Dated: _____

Signature of Respondent

Print or Type Name

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

Notary Public
My Commission Expires:

**LUMMI TRIBAL COURT
LUMMI NATION, WASHINGTON**

Case No.: _____ CVCC _____

Petitioner,
and

Respondent.

**SUMMONS – CHILD CUSTODY /
VISITATION**

TO: RESPONDENT

Address: _____

YOU ARE HEREBY GIVEN NOTICE that a petition has been filed regarding the custody and/or visitation for a child(ren). A copy of the petition is to be served with this summons.

Within twenty-one (21) days after being served with a copy of the petition and summons, respondent must either contact the court clerk and state whether respondent will appear in court to respond to the petition or file a written answer.

A written answer stating the nature of the defense must be filed with the Court and a copy served on the plaintiff. If a written answer is not filed, an oral answer may be given if requested by the respondent. The clerk shall set a hearing within the time for response for the respondent to state an answer on the record. Notice shall be given to the petitioner of the date and time of the hearing for presenting the answer.

In addition to any defenses the respondent may raise, the respondent may counterclaim against the petitioner for relief as long as the injury which the respondent complains of occurred within the jurisdiction of the Lummi Tribal Court.

If respondent does not appear or answer the complaint within twenty-one (21) days from the date the summons is served upon respondent, the Court will grant a default judgment in favor of the petitioner. Answer forms are available at the Lummi Tribal Court. If you wish to seek the advice of an attorney, you should do so promptly so that your response 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 Tribal Court
2665 Kwina Road
Bellingham, WA 98226

Petitioner:

Address

City, State, Zip Code

CIVIL SUMMONS – CHILD CUSTODY / VISITATION

Nov. 2023

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

**LUMMI TRIBAL COURT
LUMMI NATION, WASHINGTON**

<p style="text-align: center;">_____ Petitioner,</p> <p>and</p> <p style="text-align: center;">_____ Respondent.</p>	<p>Case No.: _____ CVCC _____</p> <p style="text-align: center;">MOTION FOR TEMPORARY CUSTODY ORDER</p>
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Use this form when a Petition for Child Custody has been filed and you are seeking temporary custody until a final determination is made on custody and visitation.

MOTION

1. I am the Petitioner Respondent.
2. I am the child(ren)'s Mother Father.
3. I request temporary care, custody, and control of the following child(ren):

1. Child's Name	Age	Date of Birth	Child Lives with:
			<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
Child is an enrolled member of the Lummi Indian Tribe. Yes <input type="checkbox"/> No <input type="checkbox"/>		Child is a permanent resident of the Lummi Reservation. Yes <input type="checkbox"/> No <input type="checkbox"/>	

2. Child's Name	Age	Date of Birth	Child Lives with:
			<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
Child is an enrolled member of the Lummi Indian Tribe. Yes <input type="checkbox"/> No <input type="checkbox"/>		Child is a permanent resident of the Lummi Reservation. Yes <input type="checkbox"/> No <input type="checkbox"/>	

3. Child's Name	Age	Date of Birth	Child Lives with:
			<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
Child is an enrolled member of the Lummi Indian Tribe. Yes <input type="checkbox"/> No <input type="checkbox"/>		Child is a permanent resident of the Lummi Reservation. Yes <input type="checkbox"/> No <input type="checkbox"/>	

4. Child's Name	Age	Date of Birth	Child Lives with:
			<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
Child is an enrolled member of the Lummi Indian Tribe. Yes <input type="checkbox"/> No <input type="checkbox"/>		Child is a permanent resident of the Lummi Reservation. Yes <input type="checkbox"/> No <input type="checkbox"/>	

4. In support of this motion, I submit the following affidavit setting forth facts supporting the requested order:

AFFIDAVIT

LUMMI NATION) ss

I, _____, personally appeared before the undersigned notary public, and under oath or affirmation make the following statements:

I have read, or had read to me, the contents of this motion and affidavit and I swear under penalty of perjury under all applicable civil and criminal laws that the statements, and any attachments, 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:

INSTRUCTIONS

The party filing this motion must give notice, together with a copy of this affidavit to other parties to the proceedings, who may file opposing affidavits. The Court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested order or modification should not be granted. See LCL 11.04.070.

**LUMMI TRIBAL COURT
LUMMI NATION, WASHINGTON**

<hr/> <p style="text-align: center;">Petitioner,</p> <p>and</p> <hr/> <p style="text-align: center;">Respondent.</p>	<p>Case No.: _____</p> <p style="text-align: center;">ORDER TO SHOW CAUSE ON MOTION FOR TEMPORARY CUSTODY</p>
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The Petitioner Respondent in this case filed a Motion for Temporary Custody Order. The Court reviewed the Motion for Temporary Custody Order and supporting affidavit(s) and found adequate cause to set a hearing on the Motion for Temporary Custody Order.

THEREFORE, the Motion for Temporary Custody Order shall be set for a hearing on _____, 202____ at _____ am / pm, at which time both parties shall appear, and the responding party to the motion shall show cause why the requested order should not be granted.

At the hearing, the applicant for the temporary order must present proof as to why the temporary order should be granted. The failure of the applicant to prove the allegations by a preponderance of evidence or failure of the applicant to appear at the hearing will result in the court denying the motion for the temporary order. Failure of the responding party to appear at the hearing, after proper proof of service, may result in a default order being entered and the Court granting the relief requested in the Motion for Temporary Custody Order.

Dated this _____ day of _____, 20_____

JUDGE

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5 **LUMMI TRIBAL COURT**
LUMMI NATION, WASHINGTON

6 _____
7 **Petitioner,**
8 **and**
9 _____
10 **Respondent.**

Case No.: _____
CUSTODY DECREE
AND PARENTING PLAN
 Final Order
 Temporary Order

11 **1. FINDINGS OF FACT**

12 **1.1 This custody decree and parenting plan is:**

- 13 a final order.
14 a final order modifying a previous custody decree and/or parenting plan.
15 temporary and expires on _____, 20____.
16 proposed by _____ [name].
17 jointly proposed and agreed by both parents.

18 **1.2 Parties:**

19 **1. Petitioner's name:** _____
20 Petitioner is the child(ren)'s Mother Father.

21 Enrolled member of the Lummi Indian Tribe. Yes No

22 Resident of the Lummi Indian Reservation. Yes No

23 **2. Respondent's name:** _____
24 Respondent is the child(ren)'s Mother Father.

25 Enrolled member of the Lummi Indian Tribe. Yes No

Resident of the Lummi Indian Reservation. Yes No

1.3 **Children.** This custody decree and parenting plan applies to the following child(ren):

1. Child's Name	Age	Date of Birth	Child Lives with:
			<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
Child is an enrolled member of the Lummi Indian Tribe. Yes <input type="checkbox"/> No <input type="checkbox"/>		Child is a permanent resident of the Lummi Reservation. Yes <input type="checkbox"/> No <input type="checkbox"/>	

2. Child's Name	Age	Date of Birth	Child Lives with:
			<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
Child is an enrolled member of the Lummi Indian Tribe. Yes <input type="checkbox"/> No <input type="checkbox"/>		Child is a permanent resident of the Lummi Reservation. Yes <input type="checkbox"/> No <input type="checkbox"/>	

3. Child's Name	Age	Date of Birth	Child Lives with:
			<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
Child is an enrolled member of the Lummi Indian Tribe. Yes <input type="checkbox"/> No <input type="checkbox"/>		Child is a permanent resident of the Lummi Reservation. Yes <input type="checkbox"/> No <input type="checkbox"/>	

4. Child's Name	Age	Date of Birth	Child Lives with:
			<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
Child is an enrolled member of the Lummi Indian Tribe. Yes <input type="checkbox"/> No <input type="checkbox"/>		Child is a permanent resident of the Lummi Reservation. Yes <input type="checkbox"/> No <input type="checkbox"/>	

2. RESIDENTIAL SCHEDULE

The child(ren) will primarily reside with the [] Mother [] Father throughout the year, except for the visitation schedules set out below when the child(ren) will visit the other parent:

2.1 SCHEDULE FOR CHILDREN UNDER SCHOOL AGE

[] There are no children under school age.

1 Prior to enrollment in school:

2 as mutually agreed by the parents.

3 the child(ren) will visit the other parent:

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

5 every week

6 every other week

7 first and third week of the month

8 second and fourth week of the month

9 Other:

10 2.2 SCHOOL SCHEDULE.

11 Upon enrollment in school:

12 as mutually agreed by the parents.

13 the child(ren) will visit the other parent:

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

15 every week

16 every other week

17 first and third week of the month

18 second and fourth week of the month

19 Other:

20 2.3 SCHEDULE FOR VACATIONS

21 WINTER VACATION

22 The child(ren) will visit with the other parent as follows:

23 SPRING VACATION

24 The child(ren) will visit with the other parent as follows:

1 [] SUMMER SCHEDULE.

2 The child(ren) will visit with the other parent as follows:

- 3 [] No change from the school schedule.
- 4 [] Other: _____

5 2.4 SCHEDULE FOR HOLIDAYS.

6 The schedule for holidays is as follows:

	With Mother (Specify Year)	With Father (Specify Year)
7 New Year's Day	[] Odd [] Even [] Every	[] Odd [] Even [] Every
8 Treaty Day	[] Odd [] Even [] Every	[] Odd [] Even [] Every
9 Presidents Day	[] Odd [] Even [] Every	[] Odd [] Even [] Every
10 Memorial Day	[] Odd [] Even [] Every	[] Odd [] Even [] Every
July 4 th	[] Odd [] Even [] Every	[] Odd [] Even [] Every
11 Labor Day	[] Odd [] Even [] Every	[] Odd [] Even [] Every
Veterans Day	[] Odd [] Even [] Every	[] Odd [] Even [] Every
12 Thanksgiving Day	[] Odd [] Even [] Every	[] Odd [] Even [] Every
13 Christmas Eve	[] Odd [] Even [] Every	[] Odd [] Even [] Every
Christmas Day	[] Odd [] Even [] Every	[] Odd [] Even [] Every

14 [] A holiday shall begin and end as follows (set forth times):

15 [] _____
Holidays occurring on a Friday or a Monday shall include Saturday and Sunday.

16 [] Thanksgiving Holiday shall include: _____

17 [] Other: _____

18 2.5 SCHEDULE FOR SPECIAL OCCASIONS.

19 The schedule for special occasions (for example, birthdays) is as follows:

	With Mother (Specify Year Odd/Even/Every)	With Father (Specify Year Odd/Even/Every)
20 <u>Mother's Day</u>	_____	_____
21 <u>Father's Day</u>	_____	_____
22 _____	_____	_____
23 _____	_____	_____

1 2.6 PRIORITIES UNDER THE RESIDENTIAL SCHEDULE.

2 If the residential schedule results in a conflict where the children are scheduled to be with
3 both parents at the same time, the conflict shall be resolved by the priority given as
4 follows:

5 Rank the order of priority, with 1 being the highest priority:

- | | |
|---|--|
| <input type="checkbox"/> regular schedule | <input type="checkbox"/> summer schedule |
| <input type="checkbox"/> winter vacation | <input type="checkbox"/> holidays |
| <input type="checkbox"/> spring vacation | <input type="checkbox"/> special occasions |

7 Other:

8 2.7 TRANSPORTATION ARRANGEMENTS.

9 Pickup and Dropoff Location: _____

10 Pickup Day of the week and Time: _____

11 Dropoff Day of the week and Time: _____

12 2.8 OTHER: _____

14 3. RESTRICTIONS

15 3.1 VISITATION RIGHTS RESTRICTIONS.

16 Does not apply.

17 Mother's Father's visitation rights shall be limited as follows:

18 (Note: Separate findings should be made by the Court when limiting visitation.)

19 Supervised visitation.

20 Approved supervisor: _____

21 Other Limitations: _____

22 _____

23 _____

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4. DECISION MAKING

4.1 DAY-TO-DAY DECISIONS.

Parents shall make day-to-day care and control decisions for each child while the child is residing with that parent. Either parent may make emergency decisions affecting the health or safety of the child(ren) while the child(ren) is in their care.

4.2 MAJOR DECISIONS.

Major decisions regarding each child shall be made as follows:

Education decisions	<input type="checkbox"/>	mother	<input type="checkbox"/>	father	<input type="checkbox"/>	joint
Non-emergency health care	<input type="checkbox"/>	mother	<input type="checkbox"/>	father	<input type="checkbox"/>	joint
Religious upbringing	<input type="checkbox"/>	mother	<input type="checkbox"/>	father	<input type="checkbox"/>	joint
_____	<input type="checkbox"/>	mother	<input type="checkbox"/>	father	<input type="checkbox"/>	joint

When joint 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.

4.3 RESTRICTIONS IN DECISION MAKING.

- Does not apply
- Sole decision making shall be ordered to the
 - Mother
 - Father

(Note: Separate findings should be made by the Court when limiting decision making.)

5. OTHER PROVISIONS

- No other provisions apply.
- Other provisions are attached and incorporated herein.

6. DECLARATION FOR PROPOSED PARENTING PLAN

Only sign if you are proposing or agreeing to this custody decree and parenting plan.

I affirm that by signing this custody decree and parenting plan that: (1) I have read this custody decree and parenting plan, or it has been read to me; and 2) I understand the contents of the custody decree and parenting plan and believe the contents to be true and correct, and to the best of my knowledge, information, and belief, formed after reasonable inquiry.

Mother

Date

Father

Date

1
2 7. CONCLUSIONS OF LAW

3 The Court has personal and subject matter jurisdiction in this case.
4 This custody decree and parenting plan serves the best interests of the child(ren).

5 8. CUSTODY DECREE and ORDER

6 IT IS ORDERED, ADJUDGED AND DECREED that the designated custodian for the
7 child(ren) is the Mother Father. This parent is the designated custodian for purposes of all
8 other tribal codes, and state and federal statutes that require a designation or determination of
9 custody.

10 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that custody and visitation shall
11 occur as set forth in this custody decree and parenting plan.

12 **WARNING:** Custody decree and parenting plan violations with actual knowledge of the terms
13 is punishable by contempt of court and may be a criminal offense in the Lummi Code of Laws.

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

16 Dated: _____

17 _____
18 JUDGE
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LUMMI TRIBAL COURT- CONTACT INFORMATION SHEET

Note: Contact information may be confidential for victims of domestic violence; or the type of case is confidential under the Lummi Code of Laws – such as child protection proceedings.

CASE NO. (If case number has been assigned): _____

Plaintiff / Petitioner Information: Confidential Yes No

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: _____

Defendant / Respondent Information: Confidential Yes No

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: _____

DATED SIGNATURE

NOTIFY THE COURT OF ADDRESS OR PHONE NUMBER CHANGES. COURT DOCUMENTS AND NOTICES ARE MAILED TO THE LAST ADDRESS PROVIDED.

CONTACT INFORMATION FORM

Updated: Nov 2023

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