

DOING YOUR OWN DIVORCE IN TRIBAL COURT

INTRODUCTION

The information contained in this packet is to assist you if you are considering doing your own divorce in Tribal Court. It provides information about the law and the forms you will need to fill out. If you have any questions regarding the information provided or the forms to be filled out, please contact the Tribal Court Clerk.

WHAT SHOULD I CONSIDER BEFORE I DECIDE TO DO MY OWN DIVORCE?

Will your spouse disagree with you over which one of you the children will live with?

Will your spouse disagree with you over the amount of child support to be paid or how you should divide your property (i.e., house, furniture, cars, boats, bank accounts, etc.)?

Will your spouse disagree with you over how you should divide your debts?

If your answer to any of the above questions is Yes, you may want to consider talking to a lawyer or legal advocate who is familiar with the law. (Neither the Swinomish Tribal Attorneys nor the Northwest Intertribal Court System (NICS) Attorneys can represent you in your divorce. You must either represent yourself or find someone else to represent you in Tribal Court.) If you and your spouse agree on all the terms of the divorce, forms are provided so that you can file for divorce together.

OVERVIEW OF THE PROCESS

There are a number of steps that you will need to complete before your marriage is dissolved. They include:

1. Complete the legal forms
2. File the forms with the Court Clerk
3. Notify your spouse of the divorce action by having copies of the legal forms delivered to him or her. The Court Clerk can explain the proper way to do this.

4. Wait at least 90 days. (The Court will not schedule a dissolution hearing for at least 90 days from when you first filed your papers).
5. Go to Court for your final divorce decree.

HOW MUCH WILL IT COST?

The cost for filing your forms and service of process on the reservation is \$_____. There is also a \$15.00 fee for filing the divorce with the Washington State Department of Vital Statistics.

There are forms which can be used to request the judge to waive your filing fee. If, based on your forms, the judge finds that you cannot afford to pay the filing fee, he or she will sign an order allowing you to file for a divorce without having to pay the court filing fee.

WHO MAY FILE FOR A DIVORCE IN TRIBAL COURT?

You may apply to the Swinomish Tribal Court for a divorce if you or your spouse is an enrolled member of the Swinomish Indian Tribal Community and you have resided on the Reservation for at least 90 days.

The only ground required to obtain a divorce is that the marriage is irretrievably broken. "Irretrievably Broken" means that there is no reasonable possibility that your marriage can be saved. However, your spouse may deny the marriage is irretrievably broken under oath. The court will either make a determination right away or it can continue the case for up to 90 days and order a conciliation or counseling conference. At the next scheduled hearing after the conciliation or counseling conference, the court will determine whether or not the marriage is irretrievably broken.

YOUR CHILDREN - THE PARENTING PLAN

Because the terms "custody" and "visitation" are non-Indian concepts and do not accurately reflect the parenting functions and roles in a Tribal community, the divorce forms refer instead to a plan that parents will follow regarding where the children will live, who will make the major decisions for them and how their support costs will be shared. This plan is called a parenting plan and is one of the forms included here.

The objectives of a parenting plan are:

1. To provide for the children's physical care and emotional well being.

2. To provide for the children's changing needs as they grow.
3. To clearly identify the roles and responsibilities of each parent.
4. To minimize the children's exposure to conflict between the parents.
5. To protect the best interests of the children.

A parenting plan will also provide for the financial support of the children. The Court recognizes that children have a right to receive support and that both parents have a duty to provide support for their children in proportion to their incomes. The Court has computation factors it considers in determining child support (Section 9-3.160 of SITC Domestic Relations Ordinance).

WHAT IF MY SPOUSE IS COOPERATING?

If you and your spouse agree to all the terms contained in your divorce petition, he or she can fill out and file with the Court Clerk the "Joinder of Respondent" form which indicates to the Court that there are no major disagreements between your spouse and yourself regarding division of property, allocation of debts, terms of the parenting plan, including child support, etc. The Joinder and Petition should be filed together.

WHAT IF MY SPOUSE IS NOT COOPERATING?

If your spouse is unwilling to cooperate with you or has major disagreements regarding any provisions of the Divorce Petition, you should file the Petition yourself with the Court Clerk. Next, you will need to see that a copy of the Petition and a Summons is served (delivered) to your spouse. **YOUR CANNOT DELIVER THE PETITION AND SUMMONS YOURSELF.** You can either have the Swinomish Police Department serve the legal papers if your spouse resides on the Reservation, or you can have a professional process server (see the yellow pages under "Process Server") deliver the papers to your spouse for a fee. Or you can have a friend who is over 18 years old deliver the papers to your spouse. The friend will have to fill out an Affidavit of Service which tells the Court who served your spouse, where your spouse was served and what papers your spouse was served with.

Because the judge will only grant your divorce if your spouse has been served correctly and there is proof of this service in your court file, you will probably want to have either the Swinomish Police Department or a professional process server do it.

HOW TO FILE FOR A DIVORCE IN TRIBAL COURT

I. FORM #1 - Petition for Dissolution of Marriage

- A. Fill out Form #1 - Do not sign the form until you have gone to a notary public. Be sure if there are children of the marriage that you have filled out and attached a Parenting Plan. [Form # 2]
- B. List all children born or adopted by both you and your spouse in **Section IV C** of the Petition. Children of prior marriages or relationships who have not been adopted by you or your spouse should be listed in **Section IV F and G**.
- C. **Section IV D** refers to the Parenting Plan form you must fill out if there are dependent children of the marriage.
- D. In **Section V A**, you must list the property you and your spouse own and which you would like the court to award to you or your spouse. Normally, property that was acquired by you or your spouse before the marriage, or property acquired solely by one of you by gift or inheritance during the marriage, is considered separate property by the court and will be given to the spouse that acquired it. All other property acquired during the course of the marriage will be considered property that you both own. This includes any property bought during the course of the marriage even if only the wages of one spouse were used.

In **Section V B & C** you must tell the court how the property listed in **Section V A** should be divided between you and your spouse.
- E. In **Section VI A**, list all the debts you and your spouse owe, even if the debt was incurred by only one of you.

In **Section VI B & C**, you must tell the court how the debts should be divided between you and your spouse.
- F. The court can order either spouse to pay spousal maintenance (i.e., alimony). If you believe you are due maintenance, check the appropriate box in **Section VII B**. If neither you nor your spouse wishes to request maintenance check **Section VII A**. Although the judge will consider your request, he/she will make the final decision on whether or not to order maintenance and, if awarded, the amount.

- G. If you are the wife of this marriage and want to request that your former or maiden name be returned, fill out **Section VIII**. You cannot choose a new name at this time, but only go back to your previous name.

II. FORM #2 - PARENTING PLAN

- A. Completing the Parenting Plan can be time consuming. Read the form carefully and take your time. If you have more than one child and the children will be living with different parents, fill out a Parenting Plan for each child.
- B. In **Part I**, list the names, ages and birthdates of all minor (under 18 years old) children of this marriage.
- C. In **Part II**, you are required to inform the court of any reasons why a parent's involvement with a child should be limited or restricted. The court may restrict or not allow shared parenting for a number of reasons including: child abuse, domestic violence, child abandonment or neglect, alcohol or drug abuse, mental or physical illness.

If you claim that the other parent has hurt or may harm you or your child(ren), you will need to present evidence to the court of this fact. The other parent will be able to present evidence to show that the harm did not occur.

Check **Box A** if neither parent has any special problems that should restrict or limit his or her access to the child(ren). Check **Box B** if you believe there are circumstances that require limiting access to the child(ren) and then check the box or boxes that apply.

Section C should be used to describe any special arrangements for the parent's contact with the child(ren) which may be needed for their protection [i.e., another adult shall be present during any contact with the child(ren)].

- D. **Part III** of your Parenting Plan requires you to spell out what times your child(ren) will spend with each parent, including holidays, birthdays and vacations. Usually, the court will want to see a residential schedule that allows both parents to continue to spend time with the child(ren).

If no restrictions apply (see **Part II** above), the court will lean toward having the child(ren) live primarily with the parent who has been taking care of the child(ren)'s daily needs (i.e., feeding, bathing, supervising, etc.). The court will also consider other factors like:

- ◀ any agreements the parents have reached for the residential schedule.
- ◀ how good a job each parent has done in taking care of the child(ren) in the past and their ability to take care of the child(ren) in the future.
- ◀ your child(ren)'s relationship with brothers, sisters and adults in his or her life.
- ◀ the wishes of the child if he or she is old enough to make a decision.

Under "Special Days and Holidays" check the appropriate box to indicate whether mother or father will always have that child on that holiday or whether the parents will alternate the holidays [i.e., Mother to have the children on July 4th in even numbered years; father to have them in the odd numbered years.]

- E. **Part IV** of the Parenting Plan determines who will make major decisions about your child(ren)'s education, health care, religious upbringing and other major issues. Such decisions can be made by one parent, both parents, or divided between them.

Day-to-day decisions will be made by whichever parent your child is with at a particular time. If there is an emergency, either parent may decide what to do for the child's health or safety.

If your Parenting Plan provides that both parents will make major decisions, then you will have to talk with your spouse about major problems regarding your child(ren). If you and he/she cannot agree on how to solve a problem, then you will have to go through the problem solving process spelled out in the Plan entitled, "Dispute Resolution in Implementing Plan" [Part VI].

- F. In **Part V**, check the appropriate box to indicate which parent the child(ren) will be living with most of the time (more than half of the time).
- G. **Part VI** spells out the process you and your spouse will use to resolve any problems or conflicts that may arise when mutual decision making is designated but cannot be achieved or when there is a conflict regarding residential arrangements for the child(ren).

Parents can choose to utilize available Tribal services like counseling or mediation, hire a counselor or mediator, or utilize religious, traditional or any other mutually agreeable dispute resolution process, including court. The Parenting Plan should not require counseling or some other alternative to court if one parent has one of the restrictions set out in **Part II**.

If your Parenting Plan requires you and your spouse to go through some process other than court, you must try to resolve your problem through that process before you take your problems back to court.

H. **Part VII** requires you to provide certain information so that the court can calculate what is a reasonable amount for child support. If you do not have the information in **Section A** and cannot get it, write "unknown". If you do not know your spouse's net (after taxes) income, you should estimate this amount based on what you know about his or past earnings, work history and present job or earning ability. If your spouse is a seasonal worker who earns most of his or her money for the year over the course of a few months, divide his/her total net income by 12 months to figure out what his/her average net monthly income is (i.e., if your spouse is a fisherman, and based on past fishing income and future fishing projections expects to make about \$20,000, his or her average monthly net income would be $\$20,000 \div 12$ months or \$1,666.66).

In **Section B** check which parent is to pay support and the amount requested to be paid. If you do not know how much child support to request, check the "reasonable amount" box and the court will figure out the appropriate amount based on all other information you provide it with.

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IN THE SWINOMISH TRIBAL COURT
FOR THE SWINOMISH INDIAN COMMUNITY, WASHINGTON

IN RE THE MARRIAGE OF:) No.
)
) PETITION FOR DISSOLUTION
Petitioner,) OF MARRIAGE
) (WITHOUT Minor Children Involved)
And)
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)
Respondent.)
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I. BASIS

1.1 IDENTIFICATION OF PETITIONER.

Name	
Date of Birth	
Tribal Affiliation	
Home Address	

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2 1.2 IDENTIFICATION OF RESPONDENT.

3 Name	
4 Date of Birth	
5 Tribal Affiliation	
6 Home Address	

8 1.3 CHILDREN OF THE MARRIAGE DEPENDENT UPON EITHER OR BOTH
9 SPOUSES.

10 There are no dependant children as the result of this marriage.

11 1.4 ALLEGATION REGARDING MARRIAGE.

12 This marriage is irretrievably broken.

13 1.5 DATE AND PLACE OF MARRIAGE.

14 The parties were married on _____ at _____.
15 [Date] [Place]

16 1.6 SEPARATION.

17 Husband and wife are not separated.

18 Husband and wife separated on _____
19 [Date]

20 1.7 JURISDICTION.

21 This court has jurisdiction over this matter pursuant to the Swinomish Tribal Code 7-
22 03.070 for the following reasons:

23 The Petitioner and/or Respondent is an enrolled member of the Swinomish Indian
24 Tribe and the Petitioner and/or Respondent has been domiciled upon the
25 Swinomish Indian Reservation for at least ninety (90) days prior to
commencement of this action.

1 The parties knowingly and voluntarily consent to the jurisdiction of this court.

2 Other:

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4 1.8 PROPERTY.

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

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

8 The petitioner's recommendation for the division of property is set forth below.

9 The petitioner should be awarded the parties' interest in the following
10 property: (LIST)

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15 The respondent should be awarded the parties' interest in the following
16 property: (LIST)

1 1.9 DEBTS AND LIABILITIES.

2 The parties have no debts and liabilities.

3 The parties have debts and liabilities. The court should make a fair and equitable
4 division of all debts and liabilities.

5 The division of debts and liabilities should be determined by the court at a
6 later date.

7 The petitioner's recommendation for the division of debts and liabilities is
8 set forth below

9 The petitioner should be ordered to pay the following debts and
10 liabilities to the following creditors: (LIST)

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13 The respondent should be ordered to pay the following debts and
14 liabilities to the following creditors: (LIST)

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19 1.10 SPOUSAL MAINTENANCE.

20 Spousal maintenance should not be ordered.

21 There is a need for spousal maintenance as follows:
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1 1.11 CONTINUING RESTRAINING ORDER.

2 Does not apply.

3 A continuing restraining order should be entered which restrains or enjoins the
4 respondent from assaulting, harassing, molesting or disturbing the peace of the
5 petitioner.

6 A continuing restraining order should be entered which restrains or enjoins the
7 respondent from going onto the grounds of or entering the home, working place or
8 school of the petitioner or the daycare or school of the following children:

9 A continuing restraining order should be entered which restrains or enjoins the
10 respondent from knowingly coming within or knowingly remaining within
11 _____(distance)of _____(location).

12 Other:

13 1.12 PREGNANCY.

14 The wife is not pregnant.

15 The wife is pregnant. The father of the unborn child is the husband not the
16 husband unknown.

17 1.13 OTHER:

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21 II. RELIEF REQUESTED

22 The petitioner REQUESTS the Court to enter a decree of dissolution and to grant the relief
23 below.

24 Provide reasonable maintenance for the husband wife.

25 Divide the property and liabilities.

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Change name of wife to: _____.

Change name of husband to: _____.

Enter a continuing restraining order.

Order payment of attorney's fees, other professional fees and costs.

Other

Dated: _____

Signature of Lawyer or Petitioner

Print or Type Name

Address

Phone number

I declare under penalty of perjury under the laws of the Swinomish Indian Community that the foregoing is true and correct.

Signed at _____ on _____
[Place]

[Date]

Signature

JOINDER.

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

Dated: _____

Signature of Respondent

1 **IN THE SWINOMISH TRIBAL COURT**
2 **SWINOMISH INDIAN RESERVATION, LaCONNER WASHINGTON**

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4 IN RE:) No.
5)
6) SUMMONS
7) (Domestic Relations)
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Petitioner,)
and)
Respondent.)

TO THE RESPONDENT:

1. The petitioner has started an action in the above court requesting:

- that your marriage be dissolved.
- a legal separation.
- the establishment or modification of an order of child support.
- the establishment or modification of a parenting plan.

Additional requests, if any, are stated in the petition, a copy of which is attached to this summons.

2. 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 serve your written response within 20 days after the date this summons was served on you, exclusive of the day of service, the court may enter an order of default against you, and the court may, without further notice to you, enter a decree and approve or provide for the relief requested in the petition. If you serve a notice of appearance on the undersigned person, you are entitled to notice before an order of default or a decree may be entered.

3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

This summons is issued pursuant to Swinomish Tribal Code 3-02.060.

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Dated: _____

Signature of Lawyer or Petitioner

Print or Type Name

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

SERVE A COPY OF YOUR RESPONSE
ON:

Clerk
Swinomish Tribal Court
17337 Reservation Road
P.O. Box 755
La Conner, WA 98257

Petitioner
 Petitioner's Lawyer

(Name)

(Address)

(Phone number)

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SWINOMISH TRIBAL COURT
SWINOMISH RESERVATION, LaCONNER, WASHINGTON

In re:

Case No.:

Petitioner,
and
Respondent

MOTION FOR TEMPORARY ORDERS

I. MOTION

Based on the declaration below, the undersigned moves the court for a temporary order which:

- orders temporary maintenance.
- orders child support as determined pursuant to the Swinomish Child Support Schedule.
- approves the parenting plan which is proposed by the husband wife.
- restrains or enjoins the husband wife from transferring, removing, encumbering, concealing or in any way disposing of any property except in the usual course of business or for the necessities of life and requiring each party to notify the other of any extraordinary expenditures made after the order is issued.
- restrains or enjoins the husband wife from molesting or disturbing the peace of the other party or of any child.
- restrains or enjoins the husband wife from going onto the grounds of or entering the home, working place or school of the other party or the day care or school of the following named children:
- restrains or enjoins the husband wife from knowingly coming within or knowingly remaining within _____ (distance) of _____ (location).
- restrains or enjoins the husband wife from removing any of the children from the State of Washington.
- restrains or enjoins the husband wife from assigning, transferring, borrowing, lapsing, surrendering or changing entitlement of any insurance policies of either or both parties whether medical, health, life or auto insurance.

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(IF THIS BOX IS CHECKED CLEAR AND CONVINCING REASONS FOR THIS REQUEST MUST BE PRESENTED IN THE DECLARATION BELOW.) requires the husband wife to surrender any deadly weapon in his or her immediate possession or control or subject to his or her immediate possession or control to the Swinomish police and/or sheriff of the county having jurisdiction of this proceeding, to his or her lawyer or to a person designated by the court.

makes each party immediately responsible for their own future debts whether incurred by credit card or loan, security interest or mortgage.

divides responsibility for the debts of the parties.

authorizes the family home to be occupied by the husband wife.

orders the use of property.

requires the husband wife to vacate the family home.

requires the husband wife to pay temporary attorney's fees, other professional fees and costs in the amount of \$_____ to:

other:

Dated: _____

Signature of Lawyer or Moving Party

Print or Type Name

II. DECLARATION

Temporary relief is required because:

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If the surrender of deadly weapons is requested, list reasons:

I declare under penalty of perjury under the laws of the Swinomish Nation that the foregoing is true and correct.

Signed at _____ on _____.
[City and State] [Date]

Signature

Print or Type Name

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4 **IN THE SWINOMISH TRIBAL COURT**
5 **SWINOMISH INDIAN RESERVATION, LaCONNER WASHINGTON**

6 IN Re:) No.
7)
8 Petitioner,) TEMPORARY ORDER
9 and)
10)
11 Respondent.)
12)
13)

14 **I. JUDGMENT/ORDER SUMMARIES**

15 1.1 Restraining Order Summary:
16 Does not apply. Restraining Order Summary is set forth below:

17 Name of person(s) restrained: _____ . Name of
18 person(s) protected: _____ **See paragraph 3.1.**

19 **VIOLATION OF A RESTRAINING ORDER IN PARAGRAPH 3.1 WITH ACTUAL**
20 **NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER SWINOMISH TRIBAL**
21 **CODE 4-02.120 & 7-11.140 AND WILL SUBJECT THE VIOLATOR TO ARREST**
UNDER SWINOMISH TRIBAL CODE 7-11.140(B) .

22 1.2 Money Judgment Summary:
23 Does not apply.
24 Judgment Summary is set forth below.

- 25 A. Judgment creditor
B. Judgment debtor
C. Principal judgment amount \$ _____

- 1 D. Interest to date of judgment \$ _____
- 2 E. Attorney's fees \$ _____
- 3 F. Costs \$ _____
- 4 G. Other recovery amount \$ _____
- 5 H. Principal judgment shall bear interest at _____% per annum.
- 6 I. Attorney's fees, costs and other recovery amounts shall bear interest at _____ %
per annum.
- 7 J. Spokesperson for judgment creditor
- 8 K. Spokesperson for judgment debtor
- 9 L. Other:

1.3 Temporary support: \$_____ per _____ paid by _____ to
_____.

II. BASIS

A motion for a temporary order was presented to this court and the court finds reasonable cause to issue the order.

III. ORDER

It is ORDERED that:

3.1 RESTRAINING ORDER

VIOLATION OF A RESTRAINING ORDER IN PARAGRAPH 3.1 WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER SWINOMISH TRIBAL CODE 4-02.120 & 7-11.140 AND WILL SUBJECT THE VIOLATOR TO ARREST UNDER SWINOMISH TRIBAL CODE 7-11.140(B).

- Does not apply.
- The husband wife is restrained and enjoined from molesting or disturbing the peace of the other party or of any child

1 The husband wife is restrained and enjoined from going onto the grounds
2 of or entering the home, working place or school of the other party, or the
3 daycare or school of the following named children:

4 The husband wife is restrained and enjoined from knowingly coming
5 within or knowingly remaining within _____
6 (distance) of _____(location).

7 **CLERK'S ACTION/LAW ENFORCEMENT ACTION:**

8 This order shall be filed forthwith in the clerk's office and entered of record.
9 The clerk of the court shall forward a copy of this order on or before the next
10 judicial day to _____
11 [name of appropriate law enforcement agency] which shall forthwith enter this
12 order into any computer-based criminal intelligence system available in this state
13 used by law enforcement agencies to list outstanding warrants.

14 **EXPIRATION DATE:**

15 This restraining order will expire in 12 months and shall be removed from any
16 computer-based criminal intelligence system available in this state used by law
17 enforcement agencies to list outstanding warrants, unless a new order is issued, or
18 unless the court sets forth another expiration date here:
19 _____[month/day/year].

20 **3.2 TEMPORARY RELIEF**

21 The husband wife shall pay the other party \$_____ per month
22 maintenance.

23 Starting Date: _____

24 Day(s) of the month payment is due: _____

25 Payments shall be made to:

Child support shall be paid in accordance with the order of child support, signed
 by the court.

The parties shall comply with the Temporary Parenting Plan signed by the court.

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The husband wife is restrained and enjoined from transferring, removing, encumbering, concealing or in any way disposing of any property except in the usual course of business or for the necessities of life and requiring each party to notify the other of any extraordinary expenditures made after the order is issued.

The husband wife is restrained and enjoined from removing any of the children from the State of Washington.

The husband wife is restrained and enjoined from assigning, transferring, borrowing, lapsing, surrendering or changing entitlement of any insurance policies of either or both parties whether medical, health, life or auto insurance.

The husband wife shall surrender any deadly weapon in his or her immediate possession or control or subject to his or her immediate possession or control
to: _____
(name or agency).

Each party shall be immediately responsible for their own future debts whether incurred by credit card or loan, security interest or mortgage.

Responsibility for the debts of the parties is divided as follows:

The family home shall be occupied by the husband wife.

Use of property shall be as follows:

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The husband wife shall vacate the family home at:
Address: _____

The husband wife shall pay temporary attorney's fees, other professional fees and costs in the amount of \$_____ to:

Other:

3.4 OTHER:

Dated: _____

Judge

Presented by:

Approved for entry:
Notice of presentation waived:

Signature

Signature

Print or Type Name

Print or Type Name

1.2 RESPONDENT'S FINANCIAL INFORMATION

Respondent's Occupation:

[] Respondent's MONTHLY GROSS income \$
(including ALL sources of income)

Adjustments to income:

United States Income Taxes \$
Tribal, State or local Income taxes \$
Fishing Taxes \$
FICA \$
Health Insurance premiums
paid by Respondent \$
State Industrial \$
Child Support actually paid
for another child \$
Court ordered spousal maintenance
actually paid \$

Respondent's ADJUSTED Gross Income \$

[] Respondent's Monthly income should be imputed at \$_____, because:

Identify all other available assets (i.e. cash on hand, on deposit in banks, stocks, bonds, etc.)

1.2. MONTHLY EXPENSE INFORMATION.

Monthly expenses for myself and ___ dependents are: (Expenses should be based on your expected expenses after any separation of the parties and anticipating your proposed residential schedule for dependant children, if any).

Housing: \$ _____
Utilities \$ _____
Food and Supplies \$ _____
Child care expenses
(identify) \$ _____

Transportation \$ _____

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Consumer Debts (credit cards)
(identify)

\$ _____

Other expenses:
(identify)

\$ _____

TOTAL MONTHLY EXPENSES \$ _____

I declare under penalty of perjury under the laws of the Swinomish Tribal Community that the foregoing is true and correct.

Signed at _____
[Place] [Date]

Signature _____

1 **SWINOMISH TRIBAL COURT**
2 **SWINOMISH INDIAN RESERVATION, LaCONNER WASHINGTON**

3 IN Re:) No.
4)
5) FINDINGS OF FACT AND
6) Petitioner,) CONCLUSIONS OF LAW RE:
7) DISSOLUTION OF MARRIAGE
8)
9) And)
10)
11)
12) Respondent.)
13)
14)
15)
16)

17 **I. BASIS FOR FINDINGS**

18 The findings are based on:

- 19 agreement.
20 an order of default entered on _____ [Date].
21 trial. The following people attended:

- 22 Petitioner Petitioner's Spokesperson.
23 Respondent Respondent's Spokesperson.
24 Other:

25 **II. FINDINGS OF FACT**

Upon the basis of the court record, the court FINDS:

2.1 JURISDICTION OF THE COURT.

The petitioner respondent is a member of the Swinomish Tribe and was domiciled within the reservation region at least ninety (90) days prior to commencement of this action.

2.2 NOTICE TO THE RESPONDENT.

The respondent

- appeared, responded or joined in the petition.

1
2 was served in the following manner:

3 2.3 BASIS OF PERSONAL JURISDICTION OVER THE RESPONDENT.

4 There are no facts to establish personal jurisdiction over the respondent.

5 The facts below establish personal jurisdiction over the respondent.

6 The respondent is a Swinomish Tribal member and presently residing on
7 the Swinomish Indian Reservation.

8 The parties lived on the Swinomish Indian Reservation during their
9 marriage and the petitioner continues to reside on the Swinomish Indian
Reservation, or be a member of the Swinomish Tribe.

10 The Respondent has given a knowing and intelligent consent to the
11 jurisdiction of the Swinomish Tribal Court.

12 Other:

13
14 2.4 DATE AND PLACE OF MARRIAGE.

15 The parties were married on _____
16 [Date] [Place]

17 2.5 STATUS OF THE PARTIES.

18 Husband and wife separated on _____.

19 Husband and wife are not separated.

20 2.6 STATUS OF THE MARRIAGE.

21 The marriage is irretrievably broken and the Respondent was given proper notice
22 of the petition.

23 The petitioner wishes to be legally separated.

1 The petitioner is petitioning for a declaration concerning the invalidity of the
2 marriage. The court FINDS the following facts concerning the validity of the
3 marriage:

4 2.7 COMMUNITY PROPERTY.

5 The parties do not have real or personal community property.

6 The parties have the following real or personal community property:
7
8

9
10 2.9 SEPARATE PROPERTY.

11 The husband has no real or personal separate property.

12 The wife has no real or personal separate property.

13 The husband has the following real or personal separate property:
14

15
16 The wife has the following real or personal separate property:
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21 Other:
22

23 2.10 COMMUNITY LIABILITIES.

24 There are no known community liabilities.
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2.13 CONTINUING RESTRAINING ORDER.

- Does not apply.
- A continuing restraining order against the husband wife both parties is necessary because:
- Other:

2.14 FEES AND COSTS.

- There is no award of fees or costs.
- The husband wife has the need for the payment of fees and costs and the other spouse has the ability to pay these fees and costs. The husband wife has incurred reasonable attorney fees and costs in the amount of \$_____.
- Other:

2.15 PREGNANCY.

- The wife is not pregnant.
- The wife is pregnant. The father of the unborn child is the husband not the husband undetermined.
- Other:

1 2.16 DEPENDENT CHILDREN.

2 The parties have no dependent children of this marriage.

3 The children listed below are dependent upon either or both spouses.

4 Name	1	2
5 Date of Birth		
6 Tribal Affiliation		
7 Home Address		
8 Name	3	4
9 Date of Birth		
10 Tribal Affiliation		
11 Home Address		

15 2.17 JURISDICTION OVER THE CHILDREN.

16 Does not apply because there are no dependent children.

17 This court does not have jurisdiction over the children.

18 This court has jurisdiction over the children for the reasons set forth below.

19 The child(ren) are members or eligible to be members of the Swinomish Tribe.

20 the child(ren) are residents of the Swinomish Indian Reservation.

21 This court has continuing jurisdiction because the court has previously made a child custody or parenting plan determination in this matter and the Swinomish Reservation remains the residence of the children or any contestant.

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2.18 PARENTING PLAN.

Does not apply.

The parenting plan signed by the court on _____ (Date) is approved and incorporated as part of these findings.

Other:

2.19 CHILD SUPPORT.

Does not apply.

There are children in need of support and child support should be set pursuant to the Lummi Nation Child Support Schedule. The Order of Child Support signed by the court on _____ (Date) and the child support worksheet which has been approved by the court are incorporated by reference in these findings.

Other:

2.20 OTHER:

III. CONCLUSIONS OF LAW

The court makes the following conclusions of law from the foregoing findings of fact:

3.1 JURISDICTION.

The court has jurisdiction to enter a decree in this matter.

Other:

1 3.2 GRANTING OF A DECREE.

2 The parties should be granted a decree.

3 Other:

4
5 3.3 DISPOSITION.

6 The court should determine the marital status of the parties, make provision for a
7 parenting plan for any minor children of the marriage, make provision for the support of
8 any minor child of the marriage entitled to support, consider or approve provision for the
9 maintenance of either spouse, make provision for the disposition of property and
10 liabilities of the parties, make provision for the allocation of the children as federal tax
exemptions, make provision for any necessary continuing restraining orders, and make
provision for the change of name of any party. The distribution of property and liabilities
as set forth in the decree is fair and equitable.

11 3.4 CONTINUING RESTRAINING ORDER.

12 Does not apply.

13 A continuing restraining order should be entered.

14
15 3.5 ATTORNEY’S FEES AND COSTS.

16 Does not apply.

17 Attorney’s fees, other professional fees and costs should be paid.

18 3.6 OTHER:

19
20
21
22 Dated: _____

Judge

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4 **SWINOMISH TRIBAL COURT**
5 **SWINOMISH INDIAN RESERVATION, LaCONNER WASHINGTON**

6 IN RE:) No.
7)
8) [] DECREE OF DISSOLUTION
9) [] DECREE OF LEGAL
10) SEPARATION
11) [] DECLARATION CONCERNING
12) VALIDITY
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Respondent.

14 **I. JUDGMENT/ORDER SUMMARIES**

15 1.1 Restraining Order Summary:
16 [] Does not apply. [] Restraining Order Summary is set forth below:

17 Name of person(s) restrained: _____ . Name of person(s)
18 protected: _____ . **See paragraph 3.8.**

19 **VIOLATION OF A RESTRAINING ORDER IN PARAGRAPH 3.8 BELOW WITH**
20 **ACTUAL KNOWLEDGE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER**
21 **SWINOMISH TRIBAL CODE 4-2.120 & 7-11.140 AND WILL SUBJECT THE**
22 **VIOLATOR TO ARREST UNDER SWINOMISH TRIBAL CODE 7-11.210.**

23 1.2 Real Property Judgment Summary:
24 [] Does not apply. [] Real Property Judgment Summary is set forth below:

25 Assessor's property tax parcel or account number:

1 or

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

4 or

5 the Address is:

6 1.3 Money Judgment Summary:

7 Does not apply. Judgment Summary is set forth below.

8
9 A. Judgment creditor:

10 B. Judgment debtor:

11 C. Principal judgment amount: \$ _____

12 D. Interest to date of judgment \$ _____

13 E. Attorney's fees \$ _____

14 F. Costs \$ _____

15 G. Other recovery amount \$ _____

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

17 I. Attorney's fees, costs and other recovery amounts shall bear interest at _____ % per
18 annum.

19
20 J. Spokesperson for judgment creditor

21 K. Spokesperson for judgment debtor

22 L. Other:
23

1
2 II. BASIS

3 2.1 FINDINGS OF FACT AND CONCLUSIONS OF LAW.

4 Findings of Fact and Conclusions of Law have been entered separately in this case.

5 The court makes the following findings and conclusions.

6 2.2 FACTUAL FINDINGS- JURISDICTION.

7 The Petitioner Respondent is a member of the Swinomish tribe and was
8 domiciled in the reservation region within ninety (90) days of the commencement of this
9 action.

10 The Respondent appeared, responded or joined in the Petition.

11 The Respondent was served as follows:

12 The facts below establish personal jurisdiction over Respondent:

13 The Respondent is a Tribal member and presently resides on the Reservation.

14 The parties lived on the Reservation during their marriage and Petitioner
15 continues to reside on the Reservation and/or be a member of the Swinomish
16 Tribe.

17 The Respondent has given knowing and intelligent consent to the jurisdiction
18 of the Tribal Court.

19 Other:

20 2.3 DATE AND PLACE OF MARRIAGE.

21 The parties were married on _____ at _____
22 [Date] [Place]

23 2.4 STATUS OF THE PARTIES.

24 Husband and wife were separated on _____.

25 Husband and wife are not separated.

26 2.5 STATUS OF THE MARRIAGE.

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Other:

3.3 PROPERTY TO BE AWARDED TO THE WIFE.

Does not apply.

The wife is awarded as her separate property the following property (list real estate, furniture, vehicles, pensions, insurance, bank accounts, etc.):

Other:

3.4 LIABILITIES TO BE PAID BY THE HUSBAND.

Does not apply.

The husband shall pay the following community or separate liabilities:

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Creditor

Amount

Other:

Unless otherwise provided herein, the husband shall pay all liabilities incurred by him since the date of separation.

3.5 LIABILITIES TO BE PAID BY THE WIFE.

Does not apply.

The wife shall pay the following community or separate liabilities:

Creditor

Amount

Other:

Unless otherwise provided herein, the wife shall pay all liabilities incurred by her since the date of separation.

1 3.6 HOLD HARMLESS PROVISION.

2 Does not apply.

3 Each party shall hold the other party harmless from any collection action relating
4 to separate or community liabilities set forth above, including reasonable
5 attorney's fees and costs incurred in defending against any attempts to collect an
6 obligation of the other party.

6 Other:

7
8 3.7 SPOUSAL MAINTENANCE.

9 Does not apply.

10 The husband wife shall pay \$ _____ maintenance.
11 Maintenance shall be paid
12 weekly semi-monthly monthly. The first maintenance payment shall be
13 due on _____ [date].

14 The obligation to pay future maintenance is terminated upon the death of either party or
15 the remarriage of the party receiving maintenance unless otherwise specified below:

14 Other:

16 Payments shall be made:

17 directly to the other spouse.

18 to the clerk of this court as trustee for remittance to the other spouse (only
19 available if there are no dependent children).

20 If a spousal maintenance payment is more than fifteen days past due and the total
21 of such past due payments is equal to or greater than one hundred dollars, or if the
22 obligor requests a withdrawal of accumulated contributions from the Department
23 of Retirement Systems, the obligee may seek a mandatory benefits assignment
24 order under Chapter 41.50 RCW without prior notice to the obligor.

22 The Department of Retirement Systems may make a direct payment of all or part
23 of a withdrawal of accumulated contributions pursuant to RCW 41.50.550(3).

24 Other:

1 3.8 CONTINUING RESTRAINING ORDER.

2 Does not apply.

3 A continuing restraining order is entered as follows:

4 The [] husband [] wife is restrained and enjoined from assaulting, harassing, molesting or
5 disturbing the peace of the other party.

6 The [] husband [] wife is restrained and enjoined from going onto the grounds of or entering
7 the home, workplace or school of the other party, or the day care or school of the following
8 named children:

9 The [] husband [] wife is restrained and enjoined from knowingly coming within or
10 knowingly remaining within _____(distance) of
11 _____(location).

12 Other:

13 **VIOLATION OF A RESTRAINING ORDER IN PARAGRAPH 3.8 WITH ACTUAL**
14 **KNOWLEDGE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER SWINOMISH**
15 **TRIBAL CODE 4-02.120 & 7-11.140 AND WILL SUBJECT THE VIOLATOR TO**
16 **ARREST UNDER SWINOMISH TRIBAL CODE 7-11.210.**

17 CLERK'S ACTION. The clerk of the court shall forward a copy of this order, on or before
18 the next judicial day, to: _____ law enforcement
19 agency which shall enter this order into any computer-based criminal intelligence system
20 available in this state used by law enforcement agencies to list outstanding warrants. (**A law
21 enforcement information sheet must be completed by the party or the party's attorney
22 and provided with this order before this order will be entered into the computer
23 system.**)

24 EXPIRATION.

25 This restraining order expires on: _____ [month/day/year].

This restraining order supersedes all previous temporary restraining orders in this cause
number.

3.9 PARENTING PLAN.

[] Does not apply.

[] The parties shall comply with the Parenting Plan signed by the court on
_____ [date]. The Parenting Plan signed by the court is
approved and incorporated as part of this decree.

1 3.10 CHILD SUPPORT.

2 Does not apply.

3 Child support shall be paid in accordance with the order of child support signed
4 by the court on _____ [date]. This order is incorporated as part
5 of this decree.

6
7
8 3.11 ATTORNEY'S FEES, OTHER PROFESSIONAL FEES AND COSTS.

9 Does not apply.

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

11
12 3.12 NAME CHANGES.

13 Does not apply.

14 The wife's name shall be changed to
_____ [name].

15 The husband's name shall be changed to
_____ [name].

16 3.13 OTHER:

17
18
19 Dated: _____

Judge

20
21 Presented by:

Approved for entry:
Notice for presentation waived:

22
23 _____
Signature

Signature

24 _____
Print or Type Name

Print or Type Name