

## VIEJAS WRONGFUL DEATH ORDINANCE

Enacted 10/28/2020

1. **Persons with Standing.** A cause of action for the death of a person caused by the wrongful act or neglect of another may be asserted by any of the following persons or by the decedent's personal representative on their behalf:

- (A) The decedent's surviving spouse, domestic partner, children, and issue of deceased children, or, if there is no surviving issue of the decedent, the persons, including the surviving spouse or domestic partner, who would be entitled to the property of the decedent by intestate succession. If the parents of the decedent would be entitled to bring an action under this subsection, and the parents are deceased, then the legal guardians of the decedent, if any, may bring an action under this subsection as if they were the decedent's parents.
- (B) Whether or not qualified under subsection (A), if they were dependent on the decedent, the putative spouse, children of the putative spouse, stepchildren, parents, or the legal guardians of the decedent if the parents are deceased.

As used in this subsection, "putative spouse" means the surviving spouse of a void or voidable marriage who is found by the court to have believed in good faith that the marriage to the decedent was valid.

- (C) A minor, whether or not qualified under subsections (A) or (B), if, at the time of the decedent's death, the minor resided for the previous 180 days in the decedent's household and was dependent on the decedent for one-half or more of the minor's support.
- (D) For the purpose of this section, "domestic partner" means a person who, at the time of the decedent's death, was the domestic partner of the decedent in a registered domestic partnership if:
  - (1) Two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring.
  - (2) Both adults file a Declaration of Domestic Partnership with the California Secretary of State and, at the time of filing, all of the following requirements are met:
    - (a) Neither person is married to someone else or is a member of another domestic partnership with someone else that has not been terminated, dissolved, or adjudged a nullity.

- (b) The two persons are not related by blood in a way that would prevent them from being married to each other in this state.
- (c) Both persons are at least 18 years of age.
- (d) Both persons are capable of consenting to the domestic partnership.

2. **Damages Recoverable.** In an action under this Ordinance, damages may be awarded that, under all the circumstances of the case, may be just. The court shall determine the respective rights in an award of the persons entitled to assert the cause of action. However, the court may not include the following damages, which are for survival claims:

Damages in an action or proceeding by a decedent's personal representative or successor in interest on the decedent's cause of action, the damages recoverable are limited to the loss or damage that the decedent sustained or incurred before death, including any penalties or punitive or exemplary damages that the decedent would have been entitled to recover had the decedent lived, and do not include damages for pain, suffering, or disfigurement.

3. **Statute of Limitations.** An action for the death of an individual caused by the wrongful act or neglect of another must be initiated within two years of the date of the incident.

# VIEJAS

## TRIBAL GOVERNMENT

P. O. Box 908  
Alpine, CA 91903  
# 1 Viejas Grade Road  
Alpine, CA 91901

John A. Christman, Chairman  
Victor E. Woods, Vice Chairman  
Rene Curo, Tribal Secretary  
Samuel Q. Brown, Tribal Treasurer  
Adrian M. Brown, Councilman  
Gabriel T. TeSam, Jr., Councilman  
Kevin M. Carrizosa, Councilman

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### TRIBAL COUNCIL RESOLUTION ADOPTING VIEJAS WRONGFULL DEATH ORDINANCE

Resolution No. 102820B

**WHEREAS**, the Viejas Band of Kumeyaay Indians, (appearing in the U.S. Federal Register as the *Capitan Grande Band of Diegueno Mission Indians of California: Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California*) (the “Viejas Band”) is a self-governing federally recognized Indian Tribe exercising sovereign authority over the lands of the Viejas Indian Reservation;

**WHEREAS**, the Viejas Band is governed by a duly elected Tribal Council (the “Tribal Council”);

**WHEREAS**, the Tribal Council would like to provide a forum for wrongful death actions that occurred on the Viejas Indian Reservation through the Viejas Tribal Court; and

**WHEREAS**, the Tribal Council would like to adopt its own version of wrongful death laws based on California law to provide more clarity to the Viejas Tribal Court and its users.

**NOW, THEREFORE BE IT RESOLVED THAT THE TRIBAL COUNCIL HEREBY CERTIFIES AND DULY APPROVES AND AUTHORIZES, AFTER MOTION AND UPON THE VOTE OF THE MAJORITY OF COUNCIL MEMBERS, THE FOLLOWING:**

The Tribal Council hereby rescinds Resolution No. 101520, adopting Cal. Civ. Proc. Code §§ 377.60, 377.61, 377.62, & 335.1 for wrongful death actions.

The Tribal Council now adopts the Viejas Wrongful Death Ordinance, effective immediately.

The Viejas Tribal Court shall have jurisdiction to hear all wrongful death matters.

Any actions filed after the adoption of Resolution No. 101520, but before the enactment of the Viejas Wrongful Death Ordinance shall now be heard under the jurisdiction of the Viejas Wrongful Death Ordinance.


The Tribal Council further grants the Intertribal Court of Southern California Court of Appeals jurisdiction to review Viejas Tribal Court's final decision on wrongful death matters.

Viejas Rule of Court, Rules of Evidence, Code of Civil Procedure, and Appellate Rules of Court shall be applied to these proceedings.

The Chairperson of the Viejas Band, or in the Chairperson's absence, the Vice Chairperson is hereby authorized to take any required action and to execute on behalf of the Viejas Band, any and all documents required to further the purposes of this resolution.

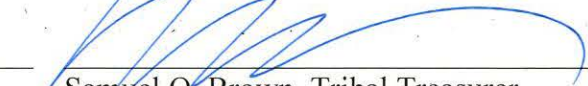
### CERTIFICATION

Resolution passed this 28<sup>TH</sup> day of OCTOBER 2020, at a duly noticed meeting of the Viejas Tribal Council by a vote of 6 for 0 against, and 0 abstaining.

  
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John A. Christman, Chairman

  
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Victor E. Woods, Vice Chairman

  
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Rene Curo, Tribal Secretary

  
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Samuel Q. Brown, Tribal Treasurer

  
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Adrian M. Brown, Councilman

absent  
\_\_\_\_\_  
Gabriel T. TeSam, Jr., Councilman

  
\_\_\_\_\_  
Kevin M. Carrizosa, Councilman