

* \$4.95 million settlement in San Jose police shooting. *

By **Henry K. Lee**

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San Jose has agreed to pay \$4.95 million to settle a federal lawsuit filed by a man who was drunk, dressed as a surgeon for Halloween and armed with a toy gun when he was shot more than 20 times by police officers.

The settlement, to come out of city coffers, is the largest paid by the city involving police conduct, City Attorney Rick Doyle said.

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This "is a lot of money, but given the extent of the injuries, it's something that the parties can live with," Doyle said.

On Oct. 23, 2011, officers found Javier Gonzales-Guerrero, 27, of San Jose passed out or sleeping in a stairwell at the Extended Stay Deluxe Hotel at 55 E. Brokaw Road. He was dressed in medical scrubs, and police said they saw the butt of a gun in his waistband.

They called out to him, and he reached for what turned out to be a fake gun, police said.

Fearing he was going to shoot them, four officers fired at him. Gonzales-Guerrero has endured numerous surgeries to "repair his ravaged body," his suit said.

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Police say they shot a costumed man when he pulled this replica gun from his waistband.

Photo: San Jose Police Dept.