



## Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Richard Doyle  
City Attorney

**SUBJECT:** Cicala v. CSJ, et al.,  
Settlement Agreement

**DATE:** May 31, 2012

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### **RECOMMENDATION**

Approve settlement in the cases of *Paul Cicala, et al. v. City of San José*, and *Ronald Heiman v. City of San José*, and authorize the City Attorney to execute a Settlement Agreement and Release with Paul Cicala, Erick Sanchez, Enrico Sagullo, Ronald Heiman, and their attorney, in the total amount of \$225,000.

### **OUTCOME**

Approve settlement to resolve a lawsuit brought by Plaintiffs Cicala, Sanchez, Sagullo, and Heiman related to their arrests for violation of Penal Code Section 647(f).

### **BACKGROUND**

The four individual plaintiffs were arrested for violation of Penal Code Section 647(f) (drunk in public) at various times during 2006 and 2007. Plaintiffs Cicala, Sanchez and Sagullo were arrested downtown, around closing time of the clubs. Plaintiff Heiman was arrested outside his apartment near downtown San José. The charges against each plaintiff were dropped by the District Attorney's Office. Plaintiffs claim that they were wrongfully arrested. Since the time of these arrests, SJPD has changed the forms used for police reports and offers PAS alcohol screening tests. These changes provide more complete information to support the arrest, which is also then available for the defense of civil cases such as these alleging wrongful arrests.

### **ANALYSIS**

There are always risks to proceeding with litigation. The settlement of these four cases is reasonable to avoid the risks of litigation.

The City will pay a total of \$150,000 in costs and attorney fees. The settlement provides for payment to the four plaintiffs of a total of \$75,000 to be divided among them.

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**PUBLIC OUTREACH/INTEREST**

This memorandum and settlement agreement have been posted on the City's website for the June 12, 2012 City Council agenda.

**COORDINATION**

The City Attorney's Office has discussed the terms of the proposed settlement with the Police Department and the City Manager.

**COST SUMMARY/IMPLICATIONS**

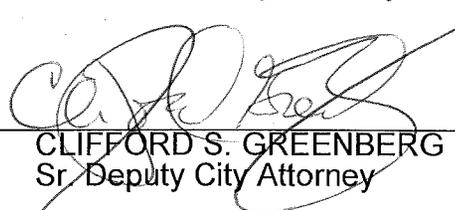
The settlement will be paid out of the City's General Liability Claims reserve fund, Appropriation 0018.

**CEQA**

CEQA: Not a Project; File No. PP10-066h, Settlement Agreements.

RICHARD DOYLE, City Attorney

By

  
CLIFFORD S. GREENBERG  
Sr. Deputy City Attorney

cc: Debra Figone, City Manager

For questions please contact RICHARD DOYLE, City Attorney, at (408) 535-1900.