	n <sup></sup>	
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Travis Eagan, Esq., State Bar No. 219222 Email: travis@calljacob.com LAW OFFICES OF JACOB EMRANI A Professional Corporation 714 West Olympic Blvd Suite 300 Los Angeles, CA 90015 Tel: 213-748-7734 Fax: 213-748-7879 Attorneys for Plaintiffs, MARIA RAMIREZ and Haydee Aviles Ramir as Guardian Ad Litem for ARMANDO BARA SUPERIOR COURT OF THE COUNTY OF SA MARIA RAMIREZ and HAYDEE AVILES RAMIREZ as Guardian Ad Litem for ARMANDO BARAJAS, Plaintiffs, v. VPM Management, Inc.; Valley Palm Apartments, DOES 1 to 50, Defendants.	JAS STATE OF CALIFORNIA
28		
28	-1-	
	PLAINTIFFS' SEPARATE STATEMENT OF DEFENDANTS' MOTION FOR	

1	Plaintiffs MARIA RAMIREZ ("RAM	IREZ") and Haydee Aviles Ramirez as	
2 Guardian Ad Litem for Armando Barajas (collectively "Plaintiffs"), hereb		lectively "Plaintiffs"), hereby respectfully	
3	submit this Separate Statement of Disputed Material Facts in opposition to the Motion for		
4	Summary Judgment filed by defendants VPM	Management, Inc., and KDF Valley Palms,	
5	LP, (collectively, the "Defendants").		
6	ISSUE 1: Defendants are Entitled to Judgn	nent on Plaintiffs' Premises Liability and	
7	General Negligence Causes of Action Becau	ise Plaintiffs Cannot Establish the	
8	Existence of a Dangerous Condition.		
9			
10	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE	
11	AND SUPPORTING EVIDENCE	· · · · · · · · · · · · · · · · · · ·	
12	1. Plaintiff was a resident at Valley	1. Undisputed.	
13	Palm Apartments ("Premises" or "Property") at the time of the		
14	incident alleged in the Complaint.		
15	Evidence: Declaration of Steven E. Bolanos		
16	("Bolanos Decl.") ¶ 2, Exhibit A (June 11,		
17	2018 Deposition Transcript of Plaintiff Maria Ramirez ("Ramirez Depo.")), 9:21-		
18	24.)		
19	2. Plaintiffs allege that they suffered injury at the Premises after a self-	2. Undisputed.	
20	closing pedestrian gate allegedly		
21	shoved Ramirez and caused them to fall on August 11, 2015		
22	("Incident").		
23	Evidence: Plaintiffs' Judicial Council Form		
24	Complaint ("Complaint"), pg. 4; Bolanos		
25	Decl. ¶ 2, Ramirez Depo., 17:18-18:2.		
26	3. Ramirez admits that while she was pushing her grandson's push car	3. Undisputed.	
20	stroller with one hand, she was not		
27			
20	- 2 PLAINTIFFS' SEPARATE STATEMENT OF		
	DEFENDANTS' MOTION FO		

I

UNI	VING PARTY'S PRINCIPAL DISPUTED MATERIAL FACTS D SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	doing anything with her other hand as she walked through the gate.	
Bola	l <u>ence</u> : mos Decl. ¶ 2, Exhibit A (Ramirez o., 22:10-14.)	
2	<ol> <li>Ramirez lived at the Property for 5 years.</li> </ol>	4. Undisputed.
Bola	l <u>ence:</u> mos Decl. ¶ 2, Exhibit A (Ramirez o., 11: 8-10.)	
	5. Ramirez admits that, before the Incident, she had used other pedestrian gates at the Property.	5. Undisputed.
Bola	l <u>ence</u> : mos Decl., ¶ 2, Exhibit A (Ramirez o., 20:20-24;21:2-3, 7.)	
	<ol> <li>Ramirez admits that all the pedestrian gates at the property "are the same": they have a self- closing mechanism and operate in the same way.</li> </ol>	6. Undisputed.
Bola	<u>lence</u> : anos Decl. ¶ 2, Exhibit A (Ramirez o., 21:9-10, 13; 28:8-9, 12.)	
	7. Plaintiffs have adduced no evidence or facts showing the pedestrian gate constituted a dangerous condition.	7. Disputed. Defendants do not properly inspect or maintain the gates. Disputed also because Defendants knew or should have known about the dangerous
Bola (Pla	lence: anos Decl. ¶¶ 3-8, Exhibits B-G intiff's Responses to Defendants'	condition with the pedestrian gate at the Premises. Defendants' security guards knew about the gate hitting pedestrians. Defendants knew or should have known
	covery Requests); Bolanos Decl. ¶ 2, ibit A (Ramirez Depo., 29:9-19.)	they needed to fix the dangerous condition to prevent possible injuries to pedestrians. Defendants did not properly inspect the gate or maintain the gate. Bu
	- 3	

<ul> <li>care, Plaintiffs would not have been injured.</li> <li>Evidence:</li> <li>Declaration of Maria Ramirez ("Ramirez Decl."), ¶ 3-13 and Ex. "A pictures;</li> <li>Declaration of Juan Molina Barriga ("Barriga Decl.") ¶ 1-4;</li> <li>Declaration of Travis R. Eagan ("Eaga Decl.") ¶ 2. Ex. "B", Deposition of Ma Davila, pp. 11-12: 22-23, 5-17; p. 16: 4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25</li> <li>8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-1; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 57: 18-23, 1; 59: 3-4;</li> <li>Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-1 pp. 24-25; 11-14 and 25, 1-18; p. 41: 11 16; pp. 74-75: 18-25, 3-15.</li> <li>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶ 8, 11, 13, 14, 1 17.</li> <li>MSJ P&amp;A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property undergoes regular inspections to ident any dangerous conditions, safety haza or maintenance employees walk the properly on a daily basis and as a matti</li> </ul>	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
<ul> <li>Declaration of Maria Ramirez ("Ramirez Decl."), ¶¶ 3-13 and Ex. "A pictures;</li> <li>Declaration of Juan Molina Barriga ("Barriga Decl.") ¶¶ 1-4;</li> <li>Declaration of Travis R. Eagan ("Eaga Decl.") ¶2, Ex. "B", Deposition of Ma Davila, pp. 11-12: 22-23, 5-17; p. 16; 4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-1 p. 48: 15-21; p. 51: 23-25; 52: 18-22; 5 57: 18-23, 1; 59: 3-4;</li> <li>Eagan Decl. ¶3, Ex. "C" Deposition on Ester Cervantes, p. 10: 3-13; p. 12: 9-1 pp. 24-25: 11-14 and 25, 1-18; p. 41: 1 16; pp. 74-75: 18-25, 3-15.</li> <li>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 1 17.</li> <li>MSJ P&amp;A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property undergoes regular inspections to ident any dangerous conditions, safety haza or maintenance employees walk the properly on a daily basis and as a matti</li> </ul>		-
<ul> <li>("Ramirez Decl."), ¶¶ 3-13 and Ex. "A pictures;</li> <li>Declaration of Juan Molina Barriga</li> <li>("Barriga Decl.") ¶¶ 1-4;</li> <li>Declaration of Travis R. Eagan ("Eaga Decl.") ¶2, Ex. "B", Deposition of Ma Davila, pp. 11-12: 22-23, 5-17; p. 16: 4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25; 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-1; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 157: 18-23, 1; 59: 3-4;</li> <li>Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-1 pp. 24-25: 11-14 and 25, 1-18; p. 41: 1 16; pp. 74-75: 18-25, 3-15.</li> <li>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes</li> <li>("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 1 17.</li> <li>MSJ P&amp;A: "Defendantsmaintain reasonable inspection and maintenance practices," p. 3: 17. "The Property undergoes regular inspections to ident any dangerous conditions, safety haza or maintenance insues (Facts 37-41.) N P&amp;A p. 4: 5-6. "Defendants" maintenance insues (Text) and and and and and and and and and and</li></ul>		Evidence:
<ul> <li>("Barriga Decl.") ¶ 1-4;</li> <li>Declaration of Travis R. Eagan ("Eaga Decl.") ¶ 2, Ex. "B", Deposition of Ma Davila, pp. 11-12: 22-23, 5-17; p. 16: 4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-1 p. 48: 15-21; p. 51: 23-25; 52: 18-22; 57: 18-23, 1; 59: 3-4;</li> <li>Eagan Decl. ¶ 3, Ex. "C" Deposition on Ester Cervantes, p. 10: 3-13; p. 12: 9-1 pp. 24-25: 11-14 and 25, 1-18; p. 41: 1 16; pp. 74-75: 18-25, 3-15.</li> <li>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶ 8, 11, 13, 14, 1 17.</li> <li>MSJ P&amp;A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property undergoes regular inspections to ident any dangerous conditions, safety haza or maintenance employees walk the properly on a daily basis and as a mattine pro</li></ul>		("Ramirez Decl."), ¶¶ 3-13 and Ex. "A"
<ul> <li>Decl.") ¶2, Ex. "B", Deposition of Ma Davila, pp. 11-12: 22-23, 5-17; p. 16: 4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 25; p. 37: 1-15; p. 40: 8-15; p. 41: 1- p. 48: 15-21; p. 51: 23-25; 52: 18-22; 5 57: 18-23, 1; 59: 3-4;</li> <li>Eagan Decl. ¶ 3, Ex. "C" Deposition on Ester Cervantes, p. 10: 3-13; p. 12: 9-1 pp. 24-25: 11-14 and 25, 1-18; p. 41: 1 16; pp. 74-75: 18-25, 3-15.</li> <li>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 1 17.</li> <li>MSJ P&amp;A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property undergoes regular inspections to ident any dangerous conditions, safety hazad or maintenance issues (Facts 37-41.) M P&amp;A p. 4: 5-6. "Defendants" maintenance employees walk the properly on a daily basis and as a matter</li> </ul>		
<ul> <li>4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25</li> <li>8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-1</li> <li>p. 48: 15-21; p. 51: 23-25; 52: 18-22; 57: 18-23, 1; 59: 3-4;</li> <li>Eagan Decl. ¶ 3, Ex. "C" Deposition on Ester Cervantes, p. 10: 3-13; p. 12: 9-1</li> <li>pp. 24-25: 11-14 and 25, 1-18; p. 41: 1</li> <li>16; pp. 74-75: 18-25, 3-15.</li> <li>Re: the claim the Defendants allegedly inspect and maintain the gates:</li> <li>Declaration of Ester Cervantes</li> <li>("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 1</li> <li>17.</li> <li>MSJ P&amp;A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property undergoes regular inspections to ident any dangerous conditions, safety hazar or maintenance issues (Facts 37-41.) M P&amp;A p. 4: 5-6. "Defendants' maintenance employees walk the properly on a daily basis and as a matter and an antenance issue and the properly on a daily basis and as a matter and and antenance issue and is an as a matter and issue and antenance issue and as a matter and issue and antenance issue and as a matter and issue and antenance issue and as a matter and issue and antenance issue antenance issue antenance issue and antenance issue antenance issue and antenance issue and antenance issue antenance issue antenance issue anten</li></ul>		Declaration of Travis R. Eagan ("Eagar Decl.") ¶ 2, Ex. "B", Deposition of Man
<ul> <li>25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-1</li> <li>p. 48: 15-21; p. 51: 23-25; 52: 18-22; 3</li> <li>57: 18-23, 1; 59: 3-4;</li> <li>Eagan Decl. ¶ 3, Ex. "C" Deposition on Ester Cervantes, p. 10: 3-13; p. 12: 9-1</li> <li>pp. 24-25: 11-14 and 25, 1-18; p. 41: 1</li> <li>16; pp. 74-75: 18-25, 3-15.</li> <li>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 1</li> <li>17.</li> <li>MSJ P&amp;A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property undergoes regular inspections to ident any dangerous conditions, safety hazar or maintenance issues (Facts 37-41.) N P&amp;A p. 4: 5-6. "Defendants" maintenance employees walk the properly on a daily basis and as a matter and the properly on a daily basis and a</li></ul>		4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25:
Eagan Decl. ¶ 3, Ex. "C" Deposition o Ester Cervantes, p. 10: 3-13; p. 12: 9-1 pp. 24-25: 11-14 and 25, 1-18; p. 41: 1 16; pp. 74-75: 18-25, 3-15. Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 1 17. MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property undergoes regular inspections to ident any dangerous conditions, safety hazar or maintenance issues (Facts 37-41.) M P&A p. 4: 5-6. "Defendants' maintenance employees walk the properly on a daily basis and as a matt		25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-1 p. 48: 15-21; p. 51: 23-25; 52: 18-22; 5
Ester Cervantes, p. 10: 3-13; p. 12: 9-1 pp. 24-25: 11-14 and 25, 1-18; p. 41: 1 16; pp. 74-75: 18-25, 3-15. Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 1 17. MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property undergoes regular inspections to ident any dangerous conditions, safety hazar or maintenance issues (Facts 37-41.) M P&A p. 4: 5-6. "Defendants' maintenance employees walk the properly on a daily basis and as a matt		
<ul> <li>16; pp. 74-75: 18-25, 3-15.</li> <li>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 1 17.</li> <li>MSJ P&amp;A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property undergoes regular inspections to ident any dangerous conditions, safety hazar or maintenance issues (Facts 37-41.) MP&amp;A p. 4: 5-6. "Defendants' maintenance employees walk the properly on a daily basis and as a matter and the second secon</li></ul>		Ester Cervantes, p. 10: 3-13; p. 12: 9-19
inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 1 17. MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property undergoes regular inspections to ident any dangerous conditions, safety hazar or maintenance issues (Facts 37-41.) M P&A p. 4: 5-6. "Defendants' maintenance employees walk the properly on a daily basis and as a matter		
("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 1 17. MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property undergoes regular inspections to ident any dangerous conditions, safety hazar or maintenance issues (Facts 37-41.) M P&A p. 4: 5-6. "Defendants' maintenance employees walk the properly on a daily basis and as a matter		
reasonable inspection and maintenance practices" p. 3: 17. "The Property undergoes regular inspections to ident any dangerous conditions, safety hazar or maintenance issues (Facts 37-41.) M P&A p. 4: 5-6. "Defendants' maintenance employees walk the properly on a daily basis and as a matt		("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16
practices" p. 3: 17. "The Property undergoes regular inspections to ident any dangerous conditions, safety hazar or maintenance issues (Facts 37-41.) M P&A p. 4: 5-6. "Defendants" maintenance employees walk the properly on a daily basis and as a matt		MSJ P&A: "Defendantsmaintain
any dangerous conditions, safety hazar or maintenance issues (Facts 37-41.) M P&A p. 4: 5-6. "Defendants' maintenance employees walk the properly on a daily basis and as a matt		reasonable inspection and maintenance practices" p. 3: 17. "The Property
or maintenance issues (Facts 37-41.) M P&A p. 4: 5-6. "Defendants' maintenance employees walk the properly on a daily basis and as a matt		undergoes regular inspections to identiti any dangerous conditions, safety hazard
maintenance employees walk the properly on a daily basis and as a matt		or maintenance issues (Facts 37-41.) M
or poncy and practice, it they identify		of policy and practice, if they identify

1 2	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
3 4 5 6 7 8 9 10 11 12		any risk or hazard at the Property, they address the problem immediately. (Facts 41,43-45.)" MSJ P&A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards immediately. (Fact 44)." MSJ P&A p. 4: 25-27. "Defendants maintain and execute reasonable policies relating to the maintenance and inspection of the Property and acted reasonably in regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the policies and practices have remained the same from before, at the time of, and since the accident.
<ol> <li>13</li> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> <li>27</li> </ol>	8. Plaintiff's discovery responses are factually devoid of information regarding how the pedestrian gate malfunctioned or constituted a "dangerous condition," beyond conclusory allegations that it "malfunctioned." Evidence Bolanos Decl. ¶¶ 3-8, Exhibits B-G (Plaintiff's Responses to Defendants' Discovery Requests).	<ul> <li>8. Disputed. Expert testimony on this subject has not yet been rendered in this action. Properly-functioning, "self-closing" gates should not shove pedestrians. Defendants did not properly inspect or maintain the gates. Defendants knew or should have known about the dangerous condition. Defendants knew or should have known that they needed to repair the dangerous condition to prevent possible injuries to pedestrians. But for Defendants' breaches of their duty of care, Plaintiffs would not have been injured. Defendants have failed to provide any evidence or any credible declarations in support of their Motion.</li> <li>Evidence:</li> <li>Declaration of Maria Ramirez ("Ramirez Decl."), ¶¶ 3-13 and Ex. "A" pictures;</li> <li>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014.</li> </ul>
28		5 -
	PLAINTIFFS' SEPARATE STATEMENT O DEFENDANTS' MOTION FO	F MATERIAL FACTS IN OPPOSITION TO

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-2 1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52 18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-1 p. 12: 9-19; pp. 24-25: 11-14 and 25, 1 18; p. 41: 14-16; pp. 74-75: 18-25, 3-1
	Re: the claim the Defendants allegedly inspect and maintain the gates:
	Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 1 17.
	MSJ P&A: "Defendantsmaintain
	reasonable inspection and maintenance practices" p. 3: 17. "The Property
	undergoes regular inspections to ident any dangerous conditions, safety hazar
	or maintenance issues (Facts 37-41.) N P&A p. 4: 5-6. "Defendants'
	maintenance employees walk the
	properly on a daily basis and as a matt of policy and practice, if they identify
	any risk or hazard at the Property, they address the problem immediately. (Fa
	41,43-45.)" MSJ P&A p. 4: 21-23. " policy and practice, maintenance
	personnel address any safety hazards
	immediately. (Fact 44)." MSJ P&A 4: 25-27. "Defendants maintain an
	execute reasonable policies relating to maintenance and inspection of the
	Property and acted reasonably in
	regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the
	policies and practices have remained t
	6 -

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	same from before, at the time of, and since the accident.
<ul> <li>9. Ramirez admits in her deposition that she doesn't know if the pedestrian gate malfunctioned or not.</li> <li><u>Evidence</u>: Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 29: 16, 19.)</li> </ul>	<ul> <li>9. Undisputed that it was her lay-person testimony at her deposition. Defendant testified, however, that the gate shoved her, which should not have happened with a properly-functioning "self-closing" gate. Calls for expert testimony Evidence:</li> <li>Declaration of Maria Ramirez ("Ramirez Decl."), ¶¶ 3-13 and Ex. "A" pictures;</li> <li>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</li> <li>Eagan Decl. ¶2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 11.5: p. 40: \$45: p.</li> </ul>
	1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl. ¶ 3, Ex. "C" Deposition of
	Ester Cervantes, p. 10: 3-13; p. 12: 9-19 p. 12: 9-19; pp. 24-25: 11-14 and 25, 1-
	18; p. 41: 14-16; pp. 74-75: 18-25, 3-15
	Re: the claim the Defendants allegedly inspect and maintain the gates:
	Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16
	17.
	MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance
	practices" p. 3: 17. "The Property

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	undergoes regular inspections to identify any dangerous conditions, safety hazards or maintenance issues (Facts 37-41.) MS P&A p. 4: 5-6. "Defendants" maintenance employees walk the properly on a daily basis and as a matter of policy and practice, if they identify any risk or hazard at the Property, they address the problem immediately. (Fact 41,43-45.)" MSJ P&A p. 4: 21-23. "Pe policy and practice, maintenance personnel address any safety hazards immediately. (Fact 44)." MSJ P&A p 4: 25-27. "Defendants maintain and execute reasonable policies relating to the maintenance and inspection of the Property and acted reasonably in regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the policies and practices have remained the same from before, at the time of, and since the accident.
10. Ramirez admits at her deposition that she doesn't know if there was	10. Undisputed that it was her lay-person earlier testimony. Disputed re: whether
"anything wrong" with the pedestrian gate.	there was anything wrong with the pedestrian gate. Defendants knew or
<u>Evidence</u> : Bolanos Decl. ¶ 2, Exhibit A (Ramirez	should have known about the dangerous condition with the pedestrian gate at the Premises. Defendants knew or should
Depo., 29: 9-10, 14.)	have known they needed to fix this
	dangerous condition to prevent possible injuries to pedestrians. But for
	Defendants' breaches of their duty of care, Plaintiffs would not have been
	injured. A properly-functioning, "self- closing" gate should not have shoved
	Plaintiff. Defendants have failed to provide any evidence or any credible
	declarations in support of their Motion.
	Evidence:
	8 -

ľ

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	Ramirez Decl., ¶¶ 3-13, Ex. "A" picture Barriga Decl. ¶¶ 1-4; Defendants knew
	the gate was hitting pedestrians as early as 2014;
	Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52:
	18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl., ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19 pp. 24-25: 11-14 and 25, 1-18; p. 41: 14 16; pp. 74-75: 18-25, 3-15.
11. Ramirez never complained to Defendants about concerns with the pedestrian gate prior to the Incident.	11. Undisputed.
Evidence:	
Declaration of Phong Nguyen ("Nguyen Decl.") ¶ 16; Declaration of Monikca Kumar ("Kumar Decl.") ¶ 13; Declaration	
of Jerry Lewis ("Lewis Decl.") ¶ 4.	12. Undianuted as to the number of
12. There are 354 Units at the Property and hundreds if not thousands of people walk through the pedestrian	12. Undisputed as to the number of apartments, but irrelevant. Disputed (du to lack of knowledge) as to alleged
gates every month.	number of pedestrians. Objection: Improper conjunctive statement.
Evidence: Nguyen Decl. ¶ 17; Kumar Decl. ¶ 14.	
13. Prior to the Incident, no one had reported any defect or dangerous	13. Disputed because, without limitatio Juan Molina Barriga and his father
condition with the pedestrian gates at the Property to Defendants.	reported the dangerous gate to security 2014. Also, properly-functioning "Self- closing" gates should not shove
- 9	

	· · ·	
1 2	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
3	Evidence:	pedestrians. Also, disputed because
4	Declaration of Esther Cervantes. ("Cervantes Decl.") ¶¶ 20, 22; Nguyen	Defendants do not properly inspect or maintain the gates. They did not then,
5	Decl. ¶ 16; Kumar Decl. ¶¶ 13; Lewis Decl. ¶ 4.	and they do not now. Defendants knew or should have known about the
6 7		dangerous condition. Defendants knew or should have known they needed to
8		repair the dangerous condition to prevent possible injuries to pedestrians. But for
9		Defendants' breaches of their duty of care, Plaintiffs would not have been injured.
10		
11		Evidence:
12 13		Ramirez Decl., ¶¶ 3-13 and Ex. "A" pictures;
13 14 15		Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
16		Eagan Decl. ¶ 2, Ex. "B", Deposition of
17		Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp.
18 19		24-25: 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52:
20		18-22; 56-57: 18-23, 1; 59: 3-4;
20		Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19;
22		pp. 24-25: 11-14 and 25, 1-18; p. 41: 14- 16; pp. 74-75: 18-25, 3-15.
23		Re: the claim the Defendants allegedly
24		inspect and maintain the gates: Declaration of Ester Cervantes
25 26		("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.
27		MSJ P&A: "Defendantsmaintain
28		reasonable inspection and maintenance
		10 - OF MATERIAL FACTS IN OPPOSITION TO
		OR SUMMARY JUDGEMENT

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	practices" p. 3: 17. "The Property undergoes regular inspections to identify any dangerous conditions, safety hazards or maintenance issues (Facts 37-41.) MS P&A p. 4: 5-6. "Defendants" maintenance employees walk the properly on a daily basis and as a matter of policy and practice, if they identify any risk or hazard at the Property, they address the problem immediately. (Fact 41,43-45.)" MSJ P&A p. 4: 21-23. "Pe policy and practice, maintenance personnel address any safety hazards immediately. (Fact 44)." MSJ P&A p 4: 25-27. "Defendants maintain and execute reasonable policies relating to the maintenance and inspection of the Property and acted reasonably in regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the policies and practices have remained the same from before, at the time of, and since the accident.
14. Prior to the Incident, no one had reported being hit, injured, or suffering any other accident	14. Disputed because, without limitation Juan Molina Barriga and his father reported the dangerous gate to security in
involving the pedestrian gates at Property to Defendants.	2014. Also, properly-functioning "Self- closing" gates should not shove pedestrians. Also, disputed because
Evidence: Declaration of Esther Cervantes.	Defendants do not properly inspect or maintain the gates. They did not then,
("Cervantes Decl.") ¶¶ 20-22; Nguyen Decl. ¶ 16; Kumar Decl. ¶¶ 13; Lewis	and they do not now. Defendants knew or should have known about the
Decl. ¶ 4-6.	dangerous condition. Defendants knew or should have known they needed to
	repair the dangerous condition to prever possible injuries to pedestrians. But for Defendants' breaches of their duty of
	care, Plaintiffs would not have been injured.
-	11 -

**.** 

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	Evidence:
	Ramirez Decl., ¶¶ 3-13, Ex. "A" pictur
	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
	Eagan Decl. ¶ 2, Ex. "B", Deposition of
	Mark Davila, pp. 11-12: 22-23, 5-17; 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp.
	24-25: 8-25, 1; pp. 35-36: 14-16, 22-25 1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52
	18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl., ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-1
	pp. 24-25: 11-14 and 25, 1-18; p. 41: 16; pp. 74-75: 18-25, 3-15.
15. Onsite employees never noticed any defect or dangerous condition	15. Disputed because, without limitati Juan Molina Barriga and his father
regarding the self-closing pedestrian gates at the Property.	reported the dangerous gate to security 2014. Also, properly-functioning "Sel
Evidence:	closing" gates should not shove pedestrians. Also, disputed because
Nguyen Decl. ¶ 13; Kumar Decl. ¶ 12-13.	Defendants do not properly inspect or maintain the gates. They did not then,
	and they do not now. Defendants knew or should have known about the dangerous condition. Defendants knew
	or should have known they needed to
	repair the dangerous condition to preve possible injuries to pedestrians. But fo
	Defendants' breaches of their duty of care, Plaintiffs would not have been
	injured.
	Evidence:
	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
	12 -

•

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
	Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp.
	24-25: 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52:
	18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19
	pp. 24-25: 11-14 and 25, 1-18; p. 41: 14 16; pp. 74-75: 18-25, 3-15.
	Det the eleine the Defendents ellegedly.
	Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes
	("Cervantes Decl.") $\P$ 8, 11, 13, 14, 16, 17.
	MSJ P&A: "Defendantsmaintain
	reasonable inspection and maintenance practices" p. 3: 17. "The Property
	undergoes regular inspections to identify any dangerous conditions, safety hazard or maintenance issues (Facts 37-41.) MS
	P&A p. 4: 5-6. "Defendants' maintenance employees walk the
	properly on a daily basis and as a matter of policy and practice, if they identify
	any risk or hazard at the Property, they address the problem immediately. (Fact
	41,43-45.)" MSJ P&A p. 4: 21-23. "Popolicy and practice, maintenance
	personnel address any safety hazards immediately. (Fact 44)." MSJ P&A p
	4: 25-27. "Defendants maintain and execute reasonable policies relating to the second seco
	maintenance and inspection of the

· []		
1 2	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
3 4 5 6		Property and acted reasonably in regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the policies and practices have remained the same from before, at the time of, and since the accident.
7		
8	16. Monthly inspections by the onsite manager of the common areas of	16. Disputed, because the gate was not properly closing as admitted by the
9 10	the Property, including pedestrian gates, never revealed any defects or	Regional Manager who walked the monthly visits with the onsite manager. Defendants do not properly inspect or
11	dangerous condition with the pedestrian gates at the Property.	maintain the gates. Defendants failure to properly inspect the gate created a
12	Evidence: Cervantes Decl. ¶10, 18; Nguyen Decl. ¶	dangerous condition. Defendants knew or should have known about the
13	10.	dangerous condition. Defendants knew or should have known that they needed to
14 15		repair the dangerous condition to prevent possible injuries to pedestrians. But for
16		Defendants' breaches of their duty of care, Plaintiffs would not have been injured.
17		Evidence:
18		Ramirez Decl. ¶¶ 3-13 and Ex. "A"
19		pictures;
20		Barriga Decl. ¶¶ 1-4; Defendants knew
21		the gate was hitting pedestrians as early as 2014;
22 23		Eagan Decl. ¶ 2, Ex. "B", Deposition of
23		Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp.
25		24-25: 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p.
26		41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 56-57: 18-23, 1; 59: 3-4;
27		10-22, 30-37. 10-23, 1, 39. 3-4,
28		
	- 14 PLAINTIFFS' SEPARATE STATEMENT O	
	DEFENDANTS' MOTION FO	

1	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
3 4 5		Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19; pp. 24-25: 11-14 and 25, 1-18; p. 41: 14- 16; pp. 74-75: 18-25, 3-15.
6 7 8		Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.
9		MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance
1		practices" p. 3: 17. "The Property undergoes regular inspections to identify
2		any dangerous conditions, safety hazards, or maintenance issues (Facts 37-41.) MSJ
3		P&A p. 4: 5-6. "Defendants' maintenance employees walk the
5		properly on a daily basis and as a matter of policy and practice, if they identify
5		any risk or hazard at the Property, they address the problem immediately. (Facts
7		41,43-45.)" MSJ P&A p. 4: 21-23. "Per policy and practice, maintenance
8		personnel address any safety hazards immediately. (Fact 44)." MSJ P&A p.
9		4: 25-27. "Defendants maintain and execute reasonable policies relating to the
0		maintenance and inspection of the Property and acted reasonably in
l      ,		regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the
2		policies and practices have remained the same from before, at the time of, and
4		since the accident.
5	17. Monthly, and often bi-monthly,	17. Disputed, because the gate was not
6	inspections by the Regional Supervisor of the common areas of	properly closing as admitted by the Regional Manager who walked the
7	the Property, including pedestrian	monthly visits with the onsite manager.
8	gates, never revealed any defects or	
		5 - F MATERIAL FACTS IN OPPOSITION TO

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
dangerous condition with the pedestrian gates at the Property.	maintain the gates. Defendants failure to properly inspect the gate created a dangerous condition. Defendants knew
Evidence: Cervantes Decl. ¶ 8-11, 18.	or should have known about the dangerous condition. Defendants knew
	or should have known they needed to repair the dangerous condition to prevent possible injuries to pedestrians. But for
	Defendants' breaches of their duty of care, Plaintiffs would not have been
	injured. Evidence:
	Ramirez Decl. ¶¶ 3-13 and Ex. "A"
	pictures;
	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
	Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p.
	16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25,
	1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19;
	pp. 24-25: 11-14 and 25, 1-18; p. 41: 14- 16; pp. 74-75: 18-25, 3-15.
	Re: the claim the Defendants allegedly
	inspect and maintain the gates: Declaration of Ester Cervantes
	("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.
	MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property
	16 -

	· · ·	
1 2	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
3 4 5 6 7 8 9 10 11 12 13 14 15 16		undergoes regular inspections to identify any dangerous conditions, safety hazards, or maintenance issues (Facts 37-41.) MSJ P&A p. 4: 5-6. "Defendants" maintenance employees walk the properly on a daily basis and as a matter of policy and practice, if they identify any risk or hazard at the Property, they address the problem immediately. (Facts 41,43-45.)" MSJ P&A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards immediately. (Fact 44)." MSJ P&A p. 4: 25-27. "Defendants maintain and execute reasonable policies relating to the maintenance and inspection of the Property and acted reasonably in regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the policies and practices have remained the same from before, at the time of, and since the accident.
<ol> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> <li>27</li> <li>20</li> </ol>	<ul> <li>18. Onsite personnel never identified any dangerous condition or defect with the pedestrian gates during their daily walkthroughs of the Property.</li> <li><u>Evidence</u> Kumar Decl. ¶ 9; Nguyen Decl. ¶ 9-10; Cervantes Decl. ¶ 23.</li> </ul>	18. Disputed, because the gate was not properly closing as admitted by the Regional Manager who walked the monthly visits with the onsite manager. Defendants do not properly inspect or maintain the gates. Defendants failure to properly inspect the gate created a dangerous condition. Defendants knew or should have known about the dangerous condition. Defendants knew or should have known they needed to repair the dangerous condition to prevent possible injuries to pedestrians. But for Defendants' breaches of their duty of care, Plaintiffs would not have been injured.
28	- 1 PLAINTIFFS' SEPARATE STATEMENT O	
	DEFENDANTS' MOTION FO	

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
	Eagan Decl. ¶ 2, Ex. "B", Deposition o
	Mark Davila, pp. 11-12: 22-23, 5-17; p 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25
	1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52 18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl. ¶ 3, Ex. "C" Deposition of
	Ester Cervantes, p. 10: 3-13; p. 12: 9-1 pp. 24-25: 11-14 and 25, 1-18; p. 41: 1 16; pp. 74-75: 18-25, 3-15.
	Re: the claim the Defendants allegedly
	inspect and maintain the gates: Declaration of Ester Cervantes
	("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 10 17.
	MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance
	practices" p. 3: 17. "The Property
	undergoes regular inspections to identi any dangerous conditions, safety hazar
	or maintenance issues (Facts 37-41.) M P&A p. 4: 5-6. "Defendants' maintenance employees walk the
	properly on a daily basis and as a matte
	of policy and practice, if they identify any risk or hazard at the Property, they
	address the problem immediately. (Fa 41,43-45.)" MSJ P&A p. 4: 21-23. "
	policy and practice, maintenance personnel address any safety hazards
	immediately. (Fact 44)." MSJ P&A 4: 25-27. "Defendants maintain and

1	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
3 4 5 6 7 8		execute reasonable policies relating to th maintenance and inspection of the Property and acted reasonably in regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the policies and practices have remained the same from before, at the time of, and since the accident.
9	19. Quarterly inspections conducted by the Affordably Housing Inc. never	19. Undisputed, but they should have noticed that the gate was not properly
ı	revealed any dangerous condition or defect with the pedestrian gates	closing as admitted by the Regional Manager who walked the monthly visits with the onsite manager. Defendants do
2	at the Property. Evidence	not properly inspect or maintain the gates. Defendants failure to properly
3	Kumar Decl. ¶ 8; Nguyen Decl. ¶ 12; Cervantes Decl. ¶ 11, 18.	inspect the gate created a dangerous condition. Defendants knew or should
		have known about the dangerous condition. Defendants knew or should
5		have known they needed to repair the dangerous condition to prevent possible
7		injuries to pedestrians. But for Defendants' breaches of their duty of
3		care, Plaintiffs would not have been injured.
		Evidence:
		Ramirez Decl. ¶¶ 3-13 and Ex. "A"
		pictures;
2		Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early
1		as 2014;
5		Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p.
5		16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25,
7.		1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p.
3	- 1	9 -
	PLAINTIFFS' SEPARATE STATEMENT OF DEFENDANTS' MOTION FO	

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19; pp. 24-25: 11-14 and 25, 1-18; p. 41: 14- 16; pp. 74-75: 18-25, 3-15.
	Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.
	MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance
	practices" p. 3: 17. "The Property undergoes regular inspections to identify
	any dangerous conditions, safety hazards or maintenance issues (Facts 37-41.) MS
	P&A p. 4: 5-6. "Defendants' maintenance employees walk the properly on a daily basis and as a matter
	of policy and practice, if they identify any risk or hazard at the Property, they
	address the problem immediately. (Facts 41,43-45.)" MSJ P&A p. 4: 21-23. "Pe
	policy and practice, maintenance personnel address any safety hazards immediately. (Fact 44)." MSJ P&A p
	4: 25-27. "Defendants maintain and execute reasonable policies relating to th
	maintenance and inspection of the Property and acted reasonably in
	regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the
	policies and practices have remained the same from before, at the time of, and
	since the accident.
_	20 -

•

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
20. Following the Incident, maintenance personnel inspected the pedestrian gate that allegedly caused Plaintiffs to fall and identified no dangerous condition, safety issues, or defects with the pedestrian gate. Evidence Nguyen Decl. ¶11; Lewis Decl. ¶3.	<ul> <li>20. Disputed. Defendants added self-closing hydraulic mechanisms to the gates after the accident, but they also failed to inspect or maintain these devices. Defendants should have identified the dangerous condition, safet issue, or defect with the self-closing mechanism that caused the gate to show? Plaintiff. Defendants do not properly inspect or maintain the gates. Defendant failure to properly inspect the gate created a dangerous condition. Defendants negligently maintained the gate and knew or should have known that they needed to fix the dangerous condition. But for Defendants' breachers of their duty of care, Plaintiffs would no have been injured.</li> <li>Evidence:</li> <li>Ramirez Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</li> <li>Eagan Decl. ¶2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52:</li> </ul>
	18-22; 56-57: 18-23, 1; 59: 3-4; Eagan Decl. ¶ 3, Ex. "C" Deposition of
	Ester Cervantes, p. 10: 3-13; p. 12: 9-19 pp. 24-25: 11-14 and 25, 1-18; p. 41: 14 16; pp. 74-75: 18-25, 3-15.

		· · · ·
1 2	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
3		
4		Re: the claim the Defendants allegedly inspect and maintain the gates:
5 6		Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.
7		
8		MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance
9		practices" p. 3: 17. "The Property undergoes regular inspections to identify any dangerous conditions, safety hazards,
10		or maintenance issues (Facts 37-41.) MSJ P&A p. 4: 5-6. "Defendants'
11		maintenance employees walk the
12		properly on a daily basis and as a matter of policy and practice, if they identify
13		any risk or hazard at the Property, they address the problem immediately. (Facts
14		41,43-45.)" MSJ P&A p. 4: 21-23. "Per policy and practice, maintenance
15		personnel address any safety hazards
16		immediately. (Fact 44)." MSJ P&A p. 4: 25-27. "Defendants maintain and
17 18		execute reasonable policies relating to the maintenance and inspection of the
19		Property and acted reasonably in regularly inspecting the gates." MSJ
20		P&A p. 9: 4-6: Admitting that the policies and practices have remained the same from before at the time of and
21		same from before, at the time of, and since the accident.
22		
23	21. The pedestrian gates close at a slow to moderate speed and some don't	21. Disputed.
24	even close all the way because they	Evidence:
25	close so slow and with such little force.	Ramirez Decl. ¶¶ 3-13 and Ex. "A"
26	Evidence:	pictures;
27	Nguyen Decl. ¶ 7. Kumar Decl. ¶ 6; Cervantes Decl. ¶ 6.	
28	- 22	2 -
	PLAINTIFFS' SEPARATE STATEMENT OF DEFENDANTS' MOTION FO	MATERIAL FACTS IN OPPOSITION TO

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
	Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp.
	24-25: 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl., ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19 pp. 24-25: 11-14 and 25, 1-18; p. 41: 14
	16; pp. 74-75: 18-25, 3-15.
ISSUE 2: Defendants are Entitled to Judg	ment on Plaintiffs' Premises Liability a
General Negligence Causes of Action Beca	use Plaintiffs Cannot Establish Breach.
MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
22. Ramirez lived at the Property for 5 years.	22. Undisputed.
Evidence: Bolanos Decl. ¶ 2, Exhibit A (Ramirez	
Depo., 11: 8-10.)	
	23 -

AND SUPPORTING EVIDENCE	AND SUPPORTING EVIDENCE
23. Ramirez admits that, before the Incident, she had used other pedestrian gates at the Property.	23. Undisputed.
Evidence: Bolanos Decl., ¶ 2, Exhibit A (Ramirez Depo., 20:20-24; 21:2-3, 7.)	
24. Ramirez admits that all the pedestrian gates at the property "are the same": they have a self-closing mechanism and operate in the same way. Evidence: Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 21:9-10, 13; 28:8-9, 12.)	<ul> <li>24. Undisputed that this was her earlied testimony but Disputed because she has since gone back to the property to take closer look. There are no self-closing mechanisms, or they are broken and dangerous. Ramirez is not an expert witness. Defendants do not properly inspect or maintain the gates. Defendants failure to properly inspect gate created a dangerous condition. N all gates operate in the same way.</li> <li>Evidence:</li> <li>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</li> <li>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as earl as 2014;</li> <li>Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-21-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 55: 18-22; 56-57: 18-23, 1; 59: 3-4;</li> <li>Eagan Decl., ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-1 pp. 24-25: 11-14 and 25, 1-18; p. 41: 16; pp. 74-75: 18-25, 3-15.</li> </ul>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
<ul> <li>25. Ramirez admits that while she was pushing her grandson's push car stroller with one hand, she was not doing anything with her other hand as she walked through the gate.</li> <li><u>Evidence</u>: Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 22:12-14.)</li> </ul>	25. Undisputed.
26. Plaintiffs have adduced no	26. Disputed. Objection: Disjunctive
evidence or facts showing that Defendants breached any duty or	Defendants do not properly inspect or maintain the gates. They did not then
acted below the required standard	and they do not now.
of care.	Evidence:
Evidence: Bolanos Decl. ¶¶ 3-8, Exhibits B-G (Plaintiff's Responses to Defendants' Discovery Requests); Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 29:9-19.)	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as ear as 2014;
	Eagan Decl. ¶ 2, Ex. "B", Deposition Mark Davila, pp. 11-12: 22-23, 5-17;
	16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-2
	1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p 41: 1-10; p. 48: 15-21; p. 51: 23-25; 5
	18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl. ¶ 3, Ex. "C" Deposition of
	Ester Cervantes, p. 10: 3-13; p. 12: 9- pp. 24-25: 11-14 and 25, 1-18; p. 41:
	16; pp. 74-75: 18-25, 3-15.
	Re: the claim the Defendants alleged
	inspect and maintain the gates: Declaration of Ester Cervantes
	("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 1 17.
	17.
- 2	5

	· · ·	
1 2	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
3 4		MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property undergoes received to identify
5 6		undergoes regular inspections to identify any dangerous conditions, safety hazards, or maintenance issues (Facts 37- 41.) MSJ P&A p. 4: 5-6. "Defendants'
7		maintenance employees walk the
8 9		properly on a daily basis and as a matter of policy and practice, if they identify any risk or hazard at the Property, they
10		address the problem immediately. (Facts 41,43-45.)" MSJ P&A p. 4: 21-23. "Per policy and practice maintenance
11		"Per policy and practice, maintenance personnel address any safety hazards
12		immediately. (Fact 44)." MSJ P&A p. 4: 25-27. "Defendants maintain and
13 14		execute reasonable policies relating to the maintenance and inspection of the
15		Property and acted reasonably in regularly inspecting the gates." MSJ
16		P&A p. 9: 4-6: Admitting that the policies and practices have remained the
17		same from before, at the time of, and since the accident.
18	27. Disintiffs have not ano duced only	27 Dissuited Defendents de set
19	27. Plaintiffs have not produced any evidence or facts to show that	27. Disputed. Defendants do not properly inspect or maintain the gates.
20	Defendants acted unreasonably with respect to maintaining the	They did not they, and they do not now.
21	gates in safe condition.	Evidence:
22 23	Evidence: Bolanos Decl. ¶¶ 3-8, Exhibits B-G	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
23	(Plaintiff's Responses to Defendants' Discovery Requests).	Barriga Decl. ¶¶ 1-4; Defendants knew
25		the gate was hitting pedestrians as early as 2014;
26		Eagan Decl. ¶ 2, Ex. "B", Deposition of
27		Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp.
28		26 -
	PLAINTIFFS' SEPARATE STATEMENT (	DF MATERIAL FACTS IN OPPOSITION TO OR SUMMARY JUDGEMENT

· · ·	
MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	24-25: 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19 pp. 24-25: 11-14 and 25, 1-18; p. 41: 14
	<ul><li>16; pp. 74-75: 18-25, 3-15.</li><li>Re: the claim the Defendants allegedly inspect and maintain the gates:</li></ul>
	Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.
	MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property
	undergoes regular inspections to identif any dangerous conditions, safety hazards, or maintenance issues (Facts 3
	41.) MSJ P&A p. 4: 5-6. "Defendants' maintenance employees walk the properly on a daily basis and as a matter
	of policy and practice, if they identify any risk or hazard at the Property, they address the problem immediately. (Fac 41,43-45.)" MSJ P&A p. 4: 21-23.
	"Per policy and practice, maintenance personnel address any safety hazards immediately. (Fact 44)." MSJ P&A
	4: 25-27. "Defendants maintain and execute reasonable policies relating to the maintenance and inspection of the
	Property and acted reasonably in regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the
	policies and practices have remained the same from before, at the time of, and since the accident.
	27
PLAINTIFFS' SEPARATE STATEMENT (	27 - OF MATERIAL FACTS IN OPPOSITION TO OR SUMMARY JUDGEMENT

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
28. Ramirez admits in her deposition	28. Undisputed that this was her earlier
that she doesn't know if the pedestrian gate malfunctioned or	lay-person testimony, and that it calls for expert testimony. But a properly-
not.	functioning, "self-closing" gate should not shove pedestrians.
Evidence: Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 29: 16, 19.)	Evidence:
	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
	Declaration of Travis R. Eagan ("Eagan
	Decl.") ¶ 2, Ex. "B", Deposition of Mar Davila, pp. 11-12: 22-23, 5-17; p. 16: 1
	4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 1 25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10
	p. 48: 15-21; p. 51: 23-25; 52: 18-22; 50 57: 18-23, 1; 59: 3-4;
	Eagan Decl., ¶ 3, Ex. "C" Deposition of
	Ester Cervantes, p. 10: 3-13; p. 12: 9-19 pp. 24-25: 11-14 and 25, 1-18; p. 41: 1 16; pp. 74-75: 18-25, 3-15.
29. Ramirez admits at her deposition that she doesn't know if there was	29. Undisputed that this was her lay- person testimony, and that it calls for
<ul> <li>"anything wrong" with the pedestrian gate.</li> <li><u>Evidence</u>:</li> <li>Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 29: 9-10, 14.)</li> </ul>	expert testimony. But a properly- functioning, "self-closing" gate should
	not shove pedestrians.
	Evidence:
	Ramirez Decl. ¶¶ 3-13 and Ex. "A"
	pictures;
	Barriga Decl. ¶¶ 1-4;
	8 -

1 2	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
3 4 5 6 7		Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 56-57: 18-23, 1; 59: 3-4;
8 9 0		Eagan Decl., ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19; pp. 24-25: 11-14 and 25, 1-18; p. 41: 14- 16; pp. 74-75: 18-25, 3-15.
11	30. Following the Incident,	30. Disputed. Defendants added self- closing hydraulic mechanisms to the
2	maintenance personnel inspected the pedestrian gate that allegedly	gates after the accident, but they also
3	caused Plaintiffs to fall and identified no dangerous condition,	failed to inspect or maintain these devices. Defendants should have
4	safety issues, or defects with the pedestrian gate.	identified the dangerous condition, safety issue, or defect with the self-closing mechanism that caused the gate to shove
5	Evidence:	Plaintiff. Defendants do not properly inspect or maintain the gates.
6	Nguyen Decl. ¶ 11; Lewis Decl. ¶ 3.	Defendants failure to properly inspect the gate created a dangerous condition.
8		Defendants negligently maintained the gate and knew or should have known
9		that it was a dangerous condition that could lead to injuries to pedestrians
20		using it. Defendants knew or should have known that they needed to fix the
21		dangerous condition. But for
22		Defendants' breaches of their duty of care, Plaintiffs would not have been
23		injured.
24		Evidence:
25		Ramirez Decl. ¶¶ 3-13 and Ex. "A"
27		pictures;
28		
		9 - F MATERIAL FACTS IN OPPOSITION TO

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
	Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p
	16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25,
	1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19
	pp. 24-25: 11-14 and 25, 1-18; p. 41: 14 16; pp. 74-75: 18-25, 3-15.
	Re: the claim the Defendants allegedly
	inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16
	17.
	MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance
	practices" p. 3: 17. "The Property undergoes regular inspections to identif
	any dangerous conditions, safety hazards, or maintenance issues (Facts 3'
	41.) MSJ P&A p. 4: 5-6. "Defendants' maintenance employees walk the
	properly on a daily basis and as a matter of policy and practice, if they identify
	any risk or hazard at the Property, they address the problem immediately. (Fac
	41,43-45.)" MSJ P&A p. 4: 21-23. "Per policy and practice, maintenance
	personnel address any safety hazards immediately. (Fact 44)." MSJ P&A j
	4: 25-27. "Defendants maintain and execute reasonable policies relating to the maintenance and importion of the
	the maintenance and inspection of the Property and acted reasonably in
	30 -

1 2	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
3 4 5 6		regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the policies and practices have remained the same from before, at the time of, and since the accident.
7	31. The pedestrian gates close at a slow	31. Disputed.
3	to moderate speed and some don't even close all the way because they	Evidence:
) 	close so slow and with such little force.	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
	Evidence: Nguyen Decl. ¶ 7. Kumar Decl. ¶ 6;	Barriga Decl. ¶¶ 1-4; Defendants knew
2	Cervantes Decl. ¶ 6.	the gate was hitting pedestrians as early as 2014;
		Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p.
5		16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25,
5		1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 56-57: 18-23, 1; 59: 3-4;
3		Eagan Decl., ¶ 3, Ex. "C" Deposition of
>		Ester Cervantes, p. 10: 3-13; p. 12: 9-19; pp. 24-25: 11-14 and 25, 1-18; p. 41: 14
)		16; pp. 74-75: 18-25, 3-15.
	32. Ramirez never complained to Defendants about concerns with the	32. Undisputed.
2	pedestrian gate prior to the Incident.	
4	Evidence: Declaration of Phong Nguyen ("Nguyen	
5	Decl.") ¶ 16; Declaration of Monikca Kumar ("Kumar Decl.") ¶ 13; Declaration	
5	of Jerry Lewis ("Lewis Decl.") ¶ 4.	
7		
3	- 3	
	PLAINTIFFS' SEPARATE STATEMENT OF DEFENDANTS' MOTION FO	

1 2	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
3	33. There are 354 Units at the Property and hundreds if not thousands of people walk through the pedestrian	33. Undisputed as to the number of apartments, but irrelevant. Disputed (due to lack of knowledge) as to alleged number of pedestrians. Objection:
5 6 7	gates every month. <u>Evidence</u> : Nguyen Decl. ¶ 17; Kumar Decl. ¶ 14.	Improper conjunctive statement.
<ul> <li>8</li> <li>9</li> <li>10</li> <li>11</li> <li>12</li> <li>13</li> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> </ul>	<ul> <li>34. Prior to the Incident, no one had reported any defect or dangerous condition with the pedestrian gates at the Property to Defendants.</li> <li><u>Evidence</u>: Declaration of Esther Cervantes. ("Cervantes Decl.") ¶¶ 20, 22; Nguyen Decl. ¶ 16; Kumar Decl. ¶¶ 13; Lewis Decl. ¶ 4.</li> </ul>	<ul> <li>34. Disputed because, without limitation, Juan Molina Barriga and his father reported the dangerous gate to security in 2014. Also, properly- functioning "Self-closing" gates should not shove pedestrians. Also, disputed because Defendants do not properly inspect or maintain the gates. They did not then, and they do not now. Defendants knew or should have known about the dangerous condition. Defendants knew or should have known they needed to repair the dangerous condition to prevent possible injuries to pedestrians. But for Defendants' breaches of their duty of care, Plaintiffs would not have been injured.</li> <li>Evidence: Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</li> <li>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</li> <li>Eagan Decl. ¶2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 56-57: 18-23, 1; 59: 3-4;</li> </ul>
27 28		
20	- 3	2 -

	Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19 pp. 24-25: 11-14 and 25, 1-18; p. 41: 14
	16; pp. 74-75: 18-25, 3-15.
	Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes
	("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16 17.
	MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance
	practices" p. 3: 17. "The Property undergoes regular inspections to identif any dangerous conditions, safety
	hazards, or maintenance issues (Facts 3 41.) MSJ P&A p. 4: 5-6. "Defendants'
	maintenance employees walk the properly on a daily basis and as a matte
	of policy and practice, if they identify any risk or hazard at the Property, they address the problem immediately. (Fac
	41,43-45.)" MSJ P&A p. 4: 21-23. "Per policy and practice, maintenance
	personnel address any safety hazards immediately. (Fact 44)." MSJ P&A
	4: 25-27. "Defendants maintain and execute reasonable policies relating to the maintenance and inspection of the
	Property and acted reasonably in regularly inspecting the gates." MSJ
	P&A p. 9: 4-6: Admitting that the policies and practices have remained the
	same from before, at the time of, and since the accident.
35. Prior to the Incident, no one had reported being hit, injured, or	35. Disputed because, without limitation, Juan Molina Barriga and his
suffering any other accident	father reported the dangerous gate to security in 2014. Also, properly- functioning "Self-closing" gates should
	- 33 -

1 2	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
3	involving the pedestrian gates at	not shove pedestrians. Also, disputed
4	Property to Defendants.	because Defendants do not properly inspect or maintain the gates. They did
5	Evidence: Declaration of Esther Cervantes.	not then, and they do not now. Defendants knew or should have known about the dangerous condition. Defendants knew or should have known
6	("Cervantes Decl.") ¶¶ 20-22; Nguyen Decl. ¶ 16; Kumar Decl. ¶¶ 13; Lewis	
7	Decl. ¶ 4-6.	they needed to repair the dangerous condition to prevent possible injuries to
8		pedestrians. But for Defendants' breaches of their duty of care, Plaintiffs
9 10		would not have been injured.
10		Evidence:
12		Ramirez Decl. ¶¶ 3-13 and Ex. "A"
13		pictures;
14 15		Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
16		Eagan Decl. ¶ 2, Ex. "B", Deposition of
17		Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24 25: 8 25 1: pp. 35 36: 14-16, 22-25
18	[ ] [ 1-2, 11-23, p. 57. 1-13, p. 40	1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p.
19		41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 56-57: 18-23, 1; 59: 3-4;
20		Eagan Decl. ¶ 3, Ex. "C" Deposition of
21 22		Ester Cervantes, p. 10: 3-13; p. 12: 9-19; pp. 24-25: 11-14 and 25, 1-18; p. 41: 14-
22		16; pp. 74-75: 18-25, 3-15.
23		Re: the claim the Defendants allegedly inspect and maintain the gates:
25		Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16,
26		17.
27		MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance
28		34 -
	PLAINTIFFS' SEPARATE STATEMENT (	DF MATERIAL FACTS IN OPPOSITION TO OR SUMMARY JUDGEMENT

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	practices" p. 3: 17. "The Property undergoes regular inspections to identif any dangerous conditions, safety
	hazards, or maintenance issues (Facts 3 41.) MSJ P&A p. 4: 5-6. "Defendants' maintenance employees walk the
	properly on a daily basis and as a matter of policy and practice, if they identify
	any risk or hazard at the Property, they address the problem immediately. (Fac 41,43-45.)" MSJ P&A p. 4: 21-23.
	"Per policy and practice, maintenance personnel address any safety hazards immediately. (Fact 44)." MSJ P&A
	4: 25-27. "Defendants maintain and execute reasonable policies relating to
	the maintenance and inspection of the Property and acted reasonably in
	regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the
	policies and practices have remained the same from before, at the time of, and
	since the accident.
36. Onsite employees never noticed	36. Disputed because, without
any defect or dangerous condition regarding the self-closing	limitation, Juan Molina Barriga and his father reported the dangerous gate to
pedestrian gates at the Property.	security in 2014. Also, properly- functioning "Self-closing" gates should
Evidence: Nguyen Decl. ¶ 13; Kumar Decl. ¶ 12-13.	not shove pedestrians. Also, disputed because Defendants do not properly
	inspect or maintain the gates. They did not then, and they do not now.
	Defendants knew or should have known about the dangerous condition.
	Defendants knew or should have know they needed to repair the dangerous
	condition to prevent possible injuries to
	pedestrians. But for Defendants' breaches of their duty of care, Plaintiffs
	would not have been injured.
	35 -

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	Evidence:
	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
	Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25
	1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p.
	41: 1-10; p. 48: 15-21; p. 51: 23-25; 52 18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl. ¶ 3, Ex. "C" Deposition of
	Ester Cervantes, p. 10: 3-13; p. 12: 9-19 pp. 24-25: 11-14 and 25, 1-18; p. 41: 14 16; pp. 74-75: 18-25, 3-15.
	Re: the claim the Defendants allegedly
	inspect and maintain the gates: Declaration of Ester Cervantes
	("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16 17.
	MSJ P&A: "Defendantsmaintain
	reasonable inspection and maintenance practices" p. 3: 17. "The Property
	undergoes regular inspections to identify any dangerous conditions, safety
	hazards, or maintenance issues (Facts 3 41.) MSJ P&A p. 4: 5-6. "Defendants'
	maintenance employees walk the
	properly on a daily basis and as a matter of policy and practice, if they identify
	any risk or hazard at the Property, they address the problem immediately. (Fac
	41,43-45.)" MSJ P&A p. 4: 21-23.
	"Per policy and practice, maintenance personnel address any safety hazards

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	immediately. (Fact 44)." MSJ P&A p 4: 25-27. "Defendants maintain and
	execute reasonable policies relating to the maintenance and inspection of the
	Property and acted reasonably in regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the
	policies and practices have remained the same from before, at the time of, and since the accident.
37. Monthly inspections by the onsite	37. Disputed. Defendants knew that the
manager of the common areas of the Property, including pedestrian	gate was not closing all the way, but the did not further inspect it or fix it.
gates, never revealed any defects or	Defendants do not properly inspect or maintain the gates. They did not then,
dangerous condition with the pedestrian gates at the Property.	and they do not now. Defendants knew or should have known about the
Evidence: Cervantes Decl. ¶18; Nguyen Decl. ¶ 10.	dangerous condition. Defendants knew or should have known they needed to
	repair the dangerous condition to preven possible injuries to pedestrians. But for
	Defendants' breaches of their duty of care, Plaintiffs would not have been injured.
	Evidence:
	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
	Barriga Decl. ¶¶ 1-4; Defendants knew
	the gate was hitting pedestrians as early
	as 2014;
	Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p.
	16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25,
	1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52:
	18-22; 56-57: 18-23, 1; 59: 3-4;
- 3	7 -

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONS AND SUPPORTING EVIDENCE
	Eagan Decl., ¶ 3, Ex. "C" Deposition Ester Cervantes, p. 10: 3-13; p. 12: 9 pp. 24-25: 11-14 and 25, 1-18; p. 41 16; pp. 74-75: 18-25, 3-15.
<ul> <li>38. Monthly, and often bi-monthly, inspections by the Regional Supervisor of the common areas of the Property, including pedestrian gates, never revealed any defects or dangerous condition with the pedestrian gates at the Property.</li> <li>Evidence:</li> <li>Cervantes Decl. ¶ 8-11, 18.</li> </ul>	<ul> <li>38. Disputed, because the gate was r properly closing as admitted by the Regional Manager who walked the monthly visits with the onsite manag Defendants did not further inspect or the gate. Defendants do not properly inspect or maintain the gates. They do not now. Defendants knew or should have know about the dangerous condition. Defendants knew or should have know they needed to repair the dangerous condition to prevent possible injuries pedestrians. But for Defendants' breaches of their duty of care, Plainti would not have been injured.</li> <li>Evidence:</li> <li>Ramirez Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as ear as 2014;</li> <li>Eagan Decl. ¶2, Ex. "B", Deposition Mark Davila, pp. 11-12: 22-23, 5-17 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-1-2, 11-25; p. 37: 1-15; p. 40: 8-15; 41: 1-10; p. 48: 15-21; p. 51: 23-25; 18-22; 56-57: 18-23, 1; 59: 3-4;</li> <li>Eagan Decl. ¶3, Ex. "C" Deposition Ester Cervantes, p. 10: 3-13; p. 12: 9</li> </ul>

l

UNDISI	IG PARTY'S PRINCIPAL PUTED MATERIAL FACTS JPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
		pp. 24-25: 11-14 and 25, 1-18; p. 41: 14 16; pp. 74-75: 18-25, 3-15.
		Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.
		MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property undergoes regular inspections to identify
		any dangerous conditions, safety
		hazards, or maintenance issues (Facts 37 41.) MSJ P&A p. 4: 5-6. "Defendants'
		maintenance employees walk the
		properly on a daily basis and as a matter of policy and practice, if they identify
		any risk or hazard at the Property, they address the problem immediately. (Fact
		41,43-45.)" MSJ P&A p. 4: 21-23. "Per policy and practice, maintenance
		personnel address any safety hazardsimmediately. (Fact 44)." MSJ P&A p
		4: 25-27. "Defendants maintain and execute reasonable policies relating to
		the maintenance and inspection of the Property and acted reasonably in
		regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the
		policies and practices have remained the same from before, at the time of, and
		since the accident.
	Quarterly inspections conducted by he Affordably Housing Inc. never	39. Disputed. Defendants do not properly inspect or maintain the gates.
r	evealed any dangerous condition	They did not then, and they do not now.
	r defect with the pedestrian gates t the Property.	Defendants knew or should have known about the dangerous condition.
e Evidence		Defendants knew or should have known they needed to repair the dangerous
	<u></u>	any needed to repair the dangerous

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
Kumar Decl. ¶ 8; Nguyen Decl. ¶ 12. Cervantes Decl. ¶ 11, 18.	condition to prevent possible injuries to pedestrians. But for Defendants' breaches of their duty of care, Plaintiff would not have been injured.
	Evidence:
	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
	Eagan Decl. ¶ 2, Ex. "B", Deposition o
	Mark Davila, pp. 11-12: 22-23, 5-17; j 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25
	1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52 18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-1
	pp. 24-25: 11-14 and 25, 1-18; p. 41: 14 16; pp. 74-75: 18-25, 3-15.
	Re: the claim the Defendants allegedly
	inspect and maintain the gates: Declaration of Ester Cervantes
	("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16 17.
	MSJ P&A: "Defendantsmaintain
	reasonable inspection and maintenance practices" p. 3: 17. "The Property
	undergoes regular inspections to identiany dangerous conditions, safety
	hazards, or maintenance issues (Facts 3 41.) MSJ P&A p. 4: 5-6. "Defendants"
	maintenance employees walk the properly on a daily basis and as a matter
	of policy and practice, if they identify

	· · ·	
1 2	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
3 4 5		any risk or hazard at the Property, they address the problem immediately. (Facts 41,43-45.)" MSJ P&A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards
6 7		immediately. (Fact 44)." MSJ P&A p. 4: 25-27. "Defendants maintain and execute reasonable policies relating to
8		the maintenance and inspection of the Property and acted reasonably in
9 10		regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the policies and practices have remained the
11		same from before, at the time of, and since the accident.
12 13	40. The onsite manager regularly	40. Disputed. Defendants added self-
14	walked through the Property looking for safety concerns and	closing hydraulic mechanisms to the gates after the accident, but they also
15	never identified any defects or dangerous conditions with the	failed to inspect or maintain these devices. Defendants should have
16	pedestrian gates at the Property.	identified the dangerous condition, safety issue, or defect with the self-closing
17 18	Evidence: Nguyen Decl. ¶¶ 8, 10.	mechanism that caused the gate to shove and injure Plaintiff. Defendants do not properly inspect or maintain the gates.
19		Defendants failure to properly inspect the gate created a dangerous condition.
20		Defendants negligently maintained the gate and knew or should have known
21		that it was a dangerous condition that could lead to injuries to pedestrians
22		using it. Defendants knew or should
23		have known that they needed to fix the dangerous condition. But for
24		Defendants' breaches of their duty of care, Plaintiffs would not have been
25 26		injured.
20		Evidence:
28	L	
	PLAINTIFFS' SEPARATE STATEMENT (	41 - DF MATERIAL FACTS IN OPPOSITION TO
	DEFENDANTS' MOTION F	OR SUMMARY JUDGEMENT

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
	Eagan Decl. ¶ 2, Ex. "B", Deposition o
	Mark Davila, pp. 11-12: 22-23, 5-17; p 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25
	1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p.
	41: 1-10; p. 48: 15-21; p. 51: 23-25; 52
	18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl. ¶ 3, Ex. "C" Deposition of
	Ester Cervantes, p. 10: 3-13; p. 12: 9-1 pp. 24-25: 11-14 and 25, 1-18; p. 41: 14
	16; pp. 74-75: 18-25, 3-15. Re: the
	claim the Defendants allegedly inspect
	and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶
	8, 11, 13, 14, 16, 17. MSJ P&A:
	"Defendantsmaintain reasonable
	p. 3: 17. "The Property undergoes
	regular inspections to identify any
•	dangerous conditions, safety hazards, o maintenance issues (Facts 37-41.) MSJ
	P&A p. 4: 5-6. "Defendants'
	maintenance employees walk the
	properly on a daily basis and as a matter of policy and practice, if they identify
	any risk or hazard at the Property, they
	address the problem immediately. (Fad
	41,43-45.)" MSJ P&A p. 4: 21-23. "Per policy and practice, maintenance
	personnel address any safety hazards
	4: 25-27. "Defendants maintain and
	execute reasonable policies relating to
	the maintenance and inspection of the
	Property and acted reasonably in

<b>  </b>   ·	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
		regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the policies and practices have remained the same from before, at the time of, and since the accident.
	<ul> <li>41. Onsite personnel never identified any dangerous condition or defect with the pedestrian gates during their daily walkthroughs of the Property.</li> <li><u>Evidence</u></li> <li>Kumar Decl. ¶ 9; Nguyen Decl. ¶ 9-10; Cervantes Decl. ¶ 23.</li> </ul>	<ul> <li>41. Disputed. Defendants added self-closing hydraulic mechanisms to the gates after the accident, but they also failed to inspect or maintain these devices. Defendants should have identified the dangerous condition, safet issue, or defect with the self-closing mechanism that caused the gate to shove Plaintiff. Defendants do not properly inspect or maintain the gates. Defendants failure to properly inspect th gate created a dangerous condition. Defendants negligently maintained the gate and knew or should have known that it was a dangerous condition that could lead to injuries to pedestrians using it. Defendants knew or should have been injured.</li> <li>Evidence:</li> <li>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</li> <li>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</li> <li>Eagan Decl. ¶2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25,</li> </ul>
	- 4	13 -

H

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52 18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-1 pp. 24-25: 11-14 and 25, 1-18; p. 41: 14
	16; pp. 74-75: 18-25, 3-15. Re: the
	and maintain the gates: Declaration of
	Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17. MSJ P&A:
	"Defendantsmaintain reasonable inspection and maintenance practices p. 3: 17. "The Property undergoes
	regular inspections to identify any
	dangerous conditions, safety hazards, o maintenance issues (Facts 37-41.) MSJ
	P&A p. 4: 5-6. "Defendants' maintenance employees walk the
	properly on a daily basis and as a matter of policy and practice, if they identify
	any risk or hazard at the Property, they
	address the problem immediately. (Fac 41,43-45.)" MSJ P&A p. 4: 21-23.
	"Per policy and practice, maintenance personnel address any safety hazards
	immediately. (Fact 44)." MSJ P&A 4: 25-27. "Defendants maintain and
	execute reasonable policies relating to
	the maintenance and inspection of the Property and acted reasonably in
	regularly inspecting the gates." MSJ
	P&A p. 9: 4-6: Admitting that the policies and practices have remained the
	same from before, at the time of, and since the accident.
42. As a matter of policy and practice,	42. Disputed due to lack of personal
tenants may report, and often do report, dangerous conditions or any	knowledge.
maintenance problems to onsite	
	44 -

ı	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	management and maintenance personnel.	
	Evidence: Cervantes Decl. ¶ 15; Nguyen Decl. ¶ 14; Kumar Decl. ¶ 10.	
	43. As a matter of policy and practice, onsite maintenance personnel respond to address maintenance issues 24 hours insofar as practicable. <u>Evidence:</u> Nguyen Decl. ¶ 15; Kumar Decl. ¶ 11; Cervantes Decl. ¶ 16.	<ul> <li>43. Disputed because the gate was not properly closing as admitted by the Regional Manager who walked the monthly visits with the onsite manager. Defendants do not properly inspect or maintain the gates. They did not then, and they do not now. Defendants knew or should have known about the dangerous condition. Defendants knew or should have known they needed to repair the dangerous condition to prevent possible injuries to pedestrians. But for Defendants' breaches of their duty of care, Plaintiffs would not have been injured.</li> <li>Evidence:</li> <li>Ramirez Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</li> <li>Eagan Decl. ¶2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 56-57: 18-23, 1; 59: 3-4;</li> <li>Eagan Decl. ¶3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19;</li> </ul>
	- 4	5_

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	pp. 24-25: 11-14 and 25, 1-18; p. 41: 1 16; pp. 74-75: 18-25, 3-15.
	Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 1 17.
	MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance
	practices" p. 3: 17. "The Property undergoes regular inspections to identi any dangerous conditions, safety hazards, or maintenance issues (Facts
	41.) MSJ P&A p. 4: 5-6. "Defendants
	maintenance employees walk the properly on a daily basis and as a matt
	of policy and practice, if they identify any risk or hazard at the Property, they address the problem immediately. (Fa
	41,43-45.)" MSJ P&A p. 4: 21-23. "Per policy and practice, maintenance
	personnel address any safety hazards immediately. (Fact 44)." MSJ P&A
	4: 25-27. "Defendants maintain an execute reasonable policies relating to
	the maintenance and inspection of the Property and acted reasonably in regularly inspecting the gates." MSJ
	P&A p. 9: 4-6: Admitting that the policies and practices have remained the
	same from before, at the time of, and since the accident.
44. As a matter of policy and practice,	44. Disputed because Defendants do r
any safety issues or dangerous conditions are addressed	properly inspect or maintain the gates. They did not then, and they do not now
immediately by maintenance	Defendants knew or should have know about the dangerous condition.
personnel or outside vendors if necessary.	Defendants knew or should have know they needed to repair the dangerous
	46 -

MOVING PARTY'S PRINCIPAL	OPPOSINC DADTVIS DESDONSE
UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
<u>Evidence</u> : Cervantes Decl. ¶ 14; Nguyen Decl. ¶ 14.	condition to prevent possible injuries pedestrians. But for Defendants' breaches of their duty of care, Plaintif would not have been injured.
	Evidence:
	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as ear as 2014;
	Eagan Decl. ¶ 2, Ex. "B", Deposition
	Mark Davila, pp. 11-12: 22-23, 5-17; 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp 24-25: 8-25, 1; pp. 35-36: 14-16, 22-2
	1-2, 11-25; p. 37: 1-15; p. 40: 8-15; 41: 1-10; p. 48: 15-21; p. 51: 23-25; 5 18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl. ¶ 3, Ex. "C" Deposition Ester Cervantes, p. 10: 3-13; p. 12: 9-
	pp. 24-25: 11-14 and 25, 1-18; p. 41: 16; pp. 74-75: 18-25, 3-15.
	Re: the claim the Defendants alleged
	inspect and maintain the gates: Declaration of Ester Cervantes
	("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 1 17.
	MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance
	practices" p. 3: 17. "The Property undergoes regular inspections to iden
	any dangerous conditions, safety
	hazards, or maintenance issues (Facts 41.) MSJ P&A p. 4: 5-6. "Defendants
	maintenance employees walk the properly on a daily basis and as a mat
	of policy and practice, if they identify

1	MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
3		any risk or hazard at the Property, they
F		address the problem immediately. (Facts 41,43-45.)" MSJ P&A p. 4: 21-23.
5		"Per policy and practice, maintenance personnel address any safety hazards immediately. (Fact 44)." MSJ P&A p
,		4: 25-27. "Defendants maintain and execute reasonable policies relating to
		the maintenance and inspection of the Property and acted reasonably in
		regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the
		policies and practices have remained the same from before, at the time of, and
		since the accident.
	45. If a safety hazard or dangerous	45. Disputed due to lack of personal
	condition on the Property cannot be addressed immediately,	knowledge
	maintenance personnel	
5	immediately place caution tape and cones around the area until the	
,	condition can be repaired.	
3	Evidence: Cervantes Decl. ¶ 17; Kumar Decl. ¶ 11;	
,	Nguyen Decl. ¶ 15.	
	46. The Regional Supervisor received	46. Disputed because Defendants do not
	copies of all inspection reports by	properly inspect or maintain the gates. They did not then, and they do not now.
2	onsite staff and AHA, and ensured that any needed repairs were	Defendants knew or should have known
	performed in a timely fashion.	about the dangerous condition. Defendants knew or should have known
↓	Evidence: Cervantes Decl. ¶ 12.	they needed to repair the dangerous condition to prevent possible injuries to
5		pedestrians. But for Defendants'
5		breaches of their duty of care, Plaintiffs would not have been injured.
7		Evidence:
8	- 4	8 -
	PLAINTIFFS' SEPARATE STATEMENT OF DEFENDANTS' MOTION FO	F MATERIAL FACTS IN OPPOSITION TO

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
	Eagan Decl. ¶ 2, Ex. "B", Deposition of
	Mark Davila, pp. 11-12: 22-23, 5-17;
	16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-29 1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p
	41: 1-10; p. 48: 15-21; p. 51: 23-25; 52
	18-22; 56-57: 18-23, 1; 59: 3-4;
	Eagan Decl. ¶ 3, Ex. "C" Deposition of
	Ester Cervantes, p. 10: 3-13; p. 12: 9-1 pp. 24-25: 11-14 and 25, 1-18; p. 41: 1 16; pp. 74-75: 18-25, 3-15.
	Re: the claim the Defendants allegedly
	inspect and maintain the gates:
	Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 10 17.
	MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property
	undergoes regular inspections to identi any dangerous conditions, safety
	hazards, or maintenance issues (Facts 2 41.) MSJ P&A p. 4: 5-6. "Defendants
	maintenance employees walk the
	properly on a daily basis and as a matter of policy and practice, if they identify
	any risk or hazard at the Property, they address the problem immediately. (Fa
	41,43-45.)" MSJ P&A p. 4: 21-23.
	"Per policy and practice, maintenance personnel address any safety hazards immediately. (Fact 44)." MSJ P&A
	49 -

I

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
AND SUPPORTING EVIDENCE	AND SUITORING EVIDENCE
	4: 25-27. "Defendants maintain and execute reasonable policies relating to the maintenance and inspection of the Property and acted reasonably in regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the policies and practices have remained th same from before, at the time of, and since the accident.
ISSUE 3: Defendants are Entitled to Judg General Negligence Causes of Action Bec MOVING PARTY'S PRINCIPAL	ause Plaintiffs Cannot Establish Causat
General Negligence Causes of Action Bec MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS	ause Plaintiffs Cannot Establish Causat OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
General Negligence Causes of Action Bec MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE 47. Ramirez lived at the Property for 5	ause Plaintiffs Cannot Establish Causat OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
General Negligence Causes of Action Bec MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE 47. Ramirez lived at the Property for 5 years. <u>Evidence:</u> Bolanos Decl. ¶ 2, Exhibit A (Ramirez	ause Plaintiffs Cannot Establish Causat OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
General Negligence Causes of Action Bec MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE 47. Ramirez lived at the Property for 5 years. <u>Evidence:</u> Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 11: 8-10.) 48. Ramirez admits that, before the Incident, she had used other	ause Plaintiffs Cannot Establish Causat         OPPOSING PARTY'S RESPONSE         AND SUPPORTING EVIDENCE         47. Undisputed.
<ul> <li>General Negligence Causes of Action Bec</li> <li>MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE</li> <li>47. Ramirez lived at the Property for 5 years.</li> <li>Evidence: Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 11: 8-10.)</li> <li>48. Ramirez admits that, before the Incident, she had used other pedestrian gates at the Property.</li> <li>Evidence: Bolanos Decl., ¶ 2, Exhibit A (Ramirez Depo., 20:20-24;21:2-3, 7.)</li> <li>49. Ramirez admits that all the</li> </ul>	ause Plaintiffs Cannot Establish Causat         OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE         47. Undisputed.       47. Undisputed.         48. Undisputed.       48. Undisputed.         49. Disputed. Not all gates operate in t
<ul> <li>General Negligence Causes of Action Bec</li> <li>MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE</li> <li>47. Ramirez lived at the Property for 5 years.</li> <li>Evidence: Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 11: 8-10.)</li> <li>48. Ramirez admits that, before the Incident, she had used other pedestrian gates at the Property.</li> <li>Evidence: Bolanos Decl., ¶ 2, Exhibit A (Ramirez Depo., 20:20-24;21:2-3, 7.)</li> </ul>	ause Plaintiffs Cannot Establish Causat         OPPOSING PARTY'S RESPONSE         AND SUPPORTING EVIDENCE         47. Undisputed.         48. Undisputed.

Bo	<u>idence</u> : lanos Decl. ¶ 2, Exhibit A (Ramirez po., 21:9-10, 13; 28:8-9, 12.)	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
		Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
		Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p.
		16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p.
		41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 56-57: 18-23, 1; 59: 3-4;
		Eagan Decl., ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19;
		pp. 24-25: 11-14 and 25, 1-18; p. 41: 14- 16; pp. 74-75: 18-25, 3-15.
	50. Ramirez admits that while she was pushing her grandson's push car	50. Undisputed.
	stroller with one hand, she was not doing anything with her other hand	
	as she walked through the gate.	
Bo	<u>idence</u> : lanos Decl. ¶ 2, Exhibit A (Ramirez po., 22:12-14.)	
	51. Plaintiffs have adduced no	51. Disputed. Objection: Disjunctive.
	evidence or facts showing the pedestrian gate constituted a	Disputed because Defendants do not properly inspect or maintain the gates.
	dangerous condition.	They did not then, and they do not now. Defendants knew or should have known
	<u>idence</u> : lanos Decl. ¶¶ 3-8, Exhibits B-G	about the dangerous condition. Defendants knew or should have known
(Pl	aintiff's Responses to Defendants' scovery Requests); Bolanos Decl. ¶ 2,	they needed to repair the dangerous condition to prevent possible injuries to
	hibit A (Ramirez Depo., 29:9-19.)	pedestrians. But for Defendants' breaches of their duty of care, Plaintiffs
		would not have been injured.
		Evidence:
	- 51	l <b>-</b>

1	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
2 3	Barriga Decl. ¶¶ 1-4; Defendants knew
4	the gate was hitting pedestrians as early as 2014;
5	Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p.
6	16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25,
7 8	1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52:
9	18-22; 56-57: 18-23, 1; 59: 3-4;
10 11	Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19; pp. 24-25: 11-14 and 25, 1-18; p. 41: 14-
12	16; pp. 74-75: 18-25, 3-15.
13	Re: the claim the Defendants allegedly inspect and maintain the gates:
14	Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16,
15	17.
16	MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance
17	practices" p. 3: 17. "The Property undergoes regular inspections to identify
18	any dangerous conditions, safety
19 20	hazards, or maintenance issues (Facts 37- 41.) MSJ P&A p. 4: 5-6. "Defendants' maintenance employees walk the
21	properly on a daily basis and as a matter of policy and practice, if they identify
22	any risk or hazard at the Property, they address the problem immediately. (Facts
23	41,43-45.)" MSJ P&A p. 4: 21-23.
24	"Per policy and practice, maintenance personnel address any safety hazards
25	immediately. (Fact 44)." MSJ P&A p. 4: 25-27. "Defendants maintain and
26	execute reasonable policies relating to
27	the maintenance and inspection of the Property and acted reasonably in regularly inspecting the gates." MSJ
28	- 52 -

1 2 3		P&A p. 9: 4-6: Admitting that the policies and practices have remained the same from before, at the time of, and since the accident.
4	52. Plaintiff's discovery responses are	52. Disputed. Expert testimony on this
5	factually devoid of information regarding how the pedestrian gate	subject has not yet been rendered in this action. Disputed also because
6 7	malfunctioned or constituted a "dangerous condition," beyond	Defendants do not properly inspect or maintain the gates. They did not then,
8	conclusory allegations that it "malfunctioned."	and they do not now. Defendants knew or should have known about the
9	Evidence	dangerous condition. Defendants knew or should have known they needed to
10	Bolanos Decl. ¶¶ 3-8, Exhibits B-G (Plaintiff's Responses to Defendants'	repair the dangerous condition to prevent possible injuries to pedestrians. But for
11	Discovery Requests).	Defendants' breaches of their duty of care, Plaintiffs would not have been
12		injured.
13		
14		Evidence:
15		Ramirez Decl. ¶¶ 3-13 and Ex. "A"
16		pictures;
17		Barriga Decl. ¶¶ 1-4; Defendants knew
18		the gate was hitting pedestrians as early as 2014;
19		Eagan Decl. ¶ 2, Ex. "B", Deposition of
20		Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp.
21		24-25: 8-25, 1; pp. 35-36: 14-16, 22-25,
22		1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52:
23		18-22; 56-57: 18-23, 1; 59: 3-4;
24		Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19;
25		pp. 24-25: 11-14 and 25, 1-18; p. 41: 14-
26		16; pp. 74-75: 18-25, 3-15.
27		Re: the claim the Defendants allegedly inspect and maintain the gates:
28	- 5	
	PLAINTIFFS' SEPARATE STATEMENT O	F MATERIAL FACTS IN OPPOSITION TO
	DEFENDANTS' MOTION FO	R SUMMARY JUDGEMENT

1 2		Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.
3		MSJ P&A: "Defendantsmaintain
4		reasonable inspection and maintenance practices" p. 3: 17. "The Property
5		undergoes regular inspections to identify
6		any dangerous conditions, safety hazards, or maintenance issues (Facts 37-
7		41.) MSJ P&A p. 4: 5-6. "Defendants' maintenance employees walk the
8		properly on a daily basis and as a matter
9		of policy and practice, if they identify any risk or hazard at the Property, they
10		address the problem immediately. (Facts 41,43-45.)" MSJ P&A p. 4: 21-23.
11		"Per policy and practice, maintenance personnel address any safety hazards
12		immediately. (Fact 44)." MSJ P&A p. 4: 25-27. "Defendants maintain and
13		execute reasonable policies relating to
14		the maintenance and inspection of the Property and acted reasonably in
15		regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the
16		policies and practices have remained the
17		same from before, at the time of, and since the accident.
18		
19	53. Plaintiffs have adduced no evidence or facts showing that	53. Disputed. Objection: Disjunctive. Disputed also because Defendants do not
20	Defendants breached any duty or	properly inspect or maintain the gates.
21	acted below the required standard of care.	They did not then, and they do not now. Defendants knew or should have known
22	Evidence	about the dangerous condition. Defendants knew or should have known
23	Bolanos Decl. ¶¶ 3-8, Exhibits B-G (Plaintiff's Responses to Defendants'	they needed to repair the dangerous condition to prevent possible injuries to
24	Discovery Requests).	pedestrians. But for Defendants'
25		breaches of their duty of care, Plaintiffs would not have been injured.
26		Evidence:
27		
28	-	
	- 5- PLAINTIFFS' SEPARATE STATEMENT O	
	DEFENDANTS' MOTION FO	

1	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
2	pictures,
3 4	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
	Facen Deal #2 Ex "D" Deposition of
5	Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p.
6	16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp.
7 8	24-25: 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52:
i i	18-22; 56-57: 18-23, 1; 59: 3-4;
9	Eagan Decl. ¶ 3, Ex. "C" Deposition of
10	Ester Cervantes, p. 10: 3-13; p. 12: 9-19;
11	pp. 24-25: 11-14 and 25, 1-18; p. 41: 14- 16; pp. 74-75: 18-25, 3-15.
12	Boy the claim the Defendents ellogedly
13	Re: the claim the Defendants allegedly inspect and maintain the gates:
14	Declaration of Ester Cervantes
	("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.
15	
16	MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance
17	practices" p. 3: 17. "The Property
18	undergoes regular inspections to identify
19	any dangerous conditions, safety hazards, or maintenance issues (Facts 37-
	41.) MSJ P&A p. 4: 5-6. "Defendants'
20	maintenance employees walk the properly on a daily basis and as a matter
21	of policy and practice, if they identify
22	any risk or hazard at the Property, they address the problem immediately. (Facts
23	41,43-45.)" MSJ P&A p. 4: 21-23.
24	"Per policy and practice, maintenance personnel address any safety hazards
	immediately. (Fact 44)." MSJ P&A p.
25	4: 25-27. "Defendants maintain and execute reasonable policies relating to
26	the maintenance and inspection of the
27	Property and acted reasonably in regularly inspecting the gates." MSJ
28	
	- 55 - PLAINTIFFS' SEPARATE STATEMENT OF MATERIAL FACTS IN OPPOSITION TO
	DEFENDANTS' MOTION FOR SUMMARY JUDGEMENT

1 2 3		P&A p. 9: 4-6: Admitting that the policies and practices have remained the same from before, at the time of, and since the accident.
4	54 Disintiffs have not produced any	54 Disputed because the sets was not
5	54. Plaintiffs have not produced any evidence or facts showing that Defendants acted unreasonably	54. Disputed because the gate was not properly closing as admitted by the Regional Manager who walked the
6	with respect to maintaining the gates in safe condition.	monthly visits with the onsite manager. Disputed also because Defendants do not
7		properly inspect or maintain the gates.
8	Evidence Bolanos Decl. ¶¶ 3-8, Exhibits B-G	They did not then, and they do not now. Defendants knew or should have known
9	(Plaintiff's Responses to Defendants' Discovery Requests).	about the dangerous condition. Defendants knew or should have known
10 11		they needed to repair the dangerous condition to prevent possible injuries to
		pedestrians. But for Defendants' breaches of their duty of care, Plaintiffs
12		would not have been injured.
13 14		Evidence:
14		Ramirez Decl. ¶¶ 3-13 and Ex. "A"
16		pictures;
10		Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early
18		as 2014;
19		Eagan Decl. ¶ 2, Ex. "B", Deposition of
20		Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp.
21		24-25: 8-25, 1; pp. 35-36: 14-16, 22-25, 1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p.
22		41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 56-57: 18-23, 1; 59: 3-4;
23		Eagan Decl. ¶ 3, Ex. "C" Deposition of
24		Ester Cervantes, p. 10: 3-13; p. 12: 9-19;
25		pp. 24-25: 11-14 and 25, 1-18; p. 41: 14- 16; pp. 74-75: 18-25, 3-15.
26		Re: the claim the Defendants allegedly
27		inspect and maintain the gates: Declaration of Ester Cervantes
28	L	
1		56 - DF MATERIAL FACTS IN OPPOSITION TO
		OR SUMMARY JUDGEMENT

	· · · · ·	
1		("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.
2 3		MSJ P&A: "Defendantsmaintain
4		reasonable inspection and maintenance practices" p. 3: 17. "The Property
5		undergoes regular inspections to identify any dangerous conditions, safety
6		hazards, or maintenance issues (Facts 37- 41.) MSJ P&A p. 4: 5-6. "Defendants'
7		maintenance employees walk the properly on a daily basis and as a matter
8 9		of policy and practice, if they identify any risk or hazard at the Property, they address the problem immediately. (Facts
10		41,43-45.)" MSJ P&A p. 4: 21-23. "Per policy and practice, maintenance
11		personnel address any safety hazards immediately. (Fact 44)." MSJ P&A p.
12		4: 25-27. "Defendants maintain and execute reasonable policies relating to
13		the maintenance and inspection of the Property and acted reasonably in
14		regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the
15 16		policies and practices have remained the same from before, at the time of, and
17		since the accident.
18	55. Ramirez admits in her deposition	55. Undisputed that this was her earlier
19	that she doesn't know if the pedestrian gate malfunctioned or	testimony. Disputed because properly- functioning "self-closing" gates should
20	not.	not shove pedestrians. Also, disputed because Defendants do not properly
21	Evidence: Bolanos Decl. ¶ 2, Exhibit A (Ramirez	inspect or maintain the gates. They did not then, and they do not now.
22 23	Depo., 29: 16, 19.)	Defendants knew or should have known about the dangerous condition.
23 24		Defendants knew or should have known they needed to repair the dangerous
25		condition to prevent possible injuries to pedestrians. But for Defendants'
26		breaches of their duty of care, Plaintiffs would not have been injured.
27		Evidence:
28		57 -
		OF MATERIAL FACTS IN OPPOSITION TO OR SUMMARY JUDGEMENT

1	Ramirez Decl. ¶¶ 3-13 and Ex. "A"
2	pictures;
3 4	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early
5	as 2014;
6	Eagan Decl. ¶ 2, Ex. "B", Deposition of
7	Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25,
8	1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p.
9	41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 56-57: 18-23, 1; 59: 3-4;
10	Eagan Decl. ¶ 3, Ex. "C" Deposition of
11	Ester Cervantes, p. 10: 3-13; p. 12: 9-19; pp. 24-25: 11-14 and 25, 1-18; p. 41: 14-
12	16; pp. 74-75: 18-25, 3-15. Re: the
13	claim the Defendants allegedly inspect and maintain the gates: Declaration of
14	Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17. MSJ P&A:
15	"Defendantsmaintain reasonable
16	p. 3: 17. "The Property undergoes
	regular inspections to identify any
17	dangerous conditions, safety hazards, or maintenance issues (Facts 37-41.) MSJ
18	P&A p. 4: 5-6. "Defendants'
19	maintenance employees walk the
20	properly on a daily basis and as a matter of policy and practice, if they identify
21	any risk or hazard at the Property, they address the problem immediately. (Facts
22	41,43-45.)" MSJ P&A p. 4: 21-23. "Per policy and practice, maintenance
23	personnel address any safety hazards
24	immediately. (Fact 44)." MSJ P&A p. 4: 25-27. "Defendants maintain and
	execute reasonable policies relating to
25	the maintenance and inspection of the Property and acted reasonably in
26	regularly inspecting the gates." MSJ
27	P&A p. 9: 4-6: Admitting that the policies and practices have remained the
28	
	- 58 - PLAINTIFFS' SEPARATE STATEMENT OF MATERIAL FACTS IN OPPOSITION TO
	DEFENDANTS' MOTION FOR SUMMARY JUDGEMENT

1		same from before, at the time of, and since the accident.
2		
3		
4	56. Ramirez admits at her deposition that she doesn't know if there was	56. Undisputed that this was her earlier testimony. Disputed because properly-
5	"anything wrong" with the pedestrian gate.	functioning "self-closing" gates should not shove pedestrians. Also, disputed
6 7	Evidence:	because Defendants do not properly inspect or maintain the gates. They did
	Bolanos Decl. ¶ 2, Exhibit A (Ramirez	not then, and they do not now.
8 9	Depo., 29: 9-10, 14.)	Defendants knew or should have known about the dangerous condition.
10		Defendants knew or should have known they needed to repair the dangerous
11		condition to prevent possible injuries to pedestrians. But for Defendants'
12		breaches of their duty of care, Plaintiffs would not have been injured.
13		Evidence:
14		Ramirez Decl. ¶¶ 3-13 and Ex. "A"
15		pictures;
16		Barriga Decl. ¶¶ 1-4; Defendants knew
17		the gate was hitting pedestrians as early as 2014;
18		Eagan Decl. ¶ 2, Ex. "B", Deposition of
19		Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp.
20		24-25: 8-25, 1; pp. 35-36: 14-16, 22-25,
21		1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52:
22		18-22; 56-57: 18-23, 1; 59: 3-4;
23		Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19;
24		pp. 24-25: 11-14 and 25, 1-18; p. 41: 14- 16; pp. 74-75: 18-25, 3-15.
25 26		Re: the claim the Defendants allegedly
26 27		inspect and maintain the gates:
27 28	L	Declaration of Ester Cervantes
20	- 5!	
	PLAINTIFFS' SEPARATE STATEMENT OF DEFENDANTS' MOTION FO	

	("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16 17.
	MSJ P&A: "Defendantsmaintain
	reasonable inspection and maintenance practices" p. 3: 17. "The Property
	undergoes regular inspections to identif any dangerous conditions, safety
	hazards, or maintenance issues (Facts 3 41.) MSJ P&A p. 4: 5-6. "Defendants'
	maintenance employees walk the
	properly on a daily basis and as a matter of policy and practice, if they identify
	any risk or hazard at the Property, they address the problem immediately. (Fac 41,43-45.)" MSJ P&A p. 4: 21-23.
	"Per policy and practice, maintenance personnel address any safety hazards
	immediately. (Fact 44)." MSJ P&A 1 4: 25-27. "Defendants maintain and
	execute reasonable policies relating to the maintenance and inspection of the
	Property and acted reasonably in
	regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the
	policies and practices have remained the same from before, at the time of, and
	since the accident.
57. Prior to the incident, no defect or	57. Disputed because, without
dangerous condition was ever identified during any of Defendants	limitation, Juan Molina Barriga and his father reported the dangerous gate to
inspections and walkthroughs of	security in 2014. Also, properly- functioning "Self-closing" gates should
the Property.	not shove pedestrians. Also, disputed
Evidence: Declaration of Esther Cervantes.	because Defendants do not properly inspect or maintain the gates. They did
("Cervantes Decl.") ¶¶ 20-22; Nguyen Decl. ¶ 16; Kumar Decl. ¶¶ 13; Lewis	not then, and they do not now. Defendants knew or should have known
Decl. ¶4.	about the dangerous condition. Defendants knew or should have known
	they needed to repair the dangerous
	condition to prevent possible injuries to pedestrians. But for Defendants'
	breaches of their duty of care, Plaintiffs would not have been injured.
- 60	)-

1	Evidence:
3	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
4	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early
6	as 2014;
7	Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p.
8	16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25,
9	1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52:
10	18-22; 56-57: 18-23, 1; 59: 3-4;
11	Eagan Decl. ¶ 3, Ex. "C" Deposition of
12	Ester Cervantes, p. 10: 3-13; p. 12: 9-19 pp. 24-25: 11-14 and 25, 1-18; p. 41: 14
13	16; pp. 74-75: 18-25, 3-15.
14	Re: the claim the Defendants allegedly
15	inspect and maintain the gates: Declaration of Ester Cervantes
16	("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.
17	MSJ P&A: "Defendantsmaintain
18	reasonable inspection and maintenance
19	practices" p. 3: 17. "The Property undergoes regular inspections to identify
20	any dangerous conditions, safety hazards, or maintenance issues (Facts 37
21	41.) MSJ P&A p. 4: 5-6. "Defendants' maintenance employees walk the
22	properly on a daily basis and as a matter
23	of policy and practice, if they identify any risk or hazard at the Property, they
24	address the problem immediately. (Fact 41,43-45.)" MSJ P&A p. 4: 21-23.
25	"Per policy and practice, maintenance
26	personnel address any safety hazards immediately. (Fact 44)." MSJ P&A p
27	4: 25-27. "Defendants maintain and execute reasonable policies relating to
28	- 61 -

1 2 3 4 5		the maintenance and inspection of the Property and acted reasonably in regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the policies and practices have remained the same from before, at the time of, and since the accident.
<ul> <li>6</li> <li>7</li> <li>8</li> <li>9</li> <li>10</li> <li>11</li> <li>12</li> <li>13</li> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> </ul>	58. Following the Incident, maintenance personnel inspected the pedestrian gate that allegedly caused Plaintiffs to fall and identified no dangerous condition, safety issues, or defects with the pedestrian gate. Evidence Nguyen Decl. ¶ 11; Lewis Decl. ¶ 3.	<ul> <li>58. Disputed. Defendants added self-closing hydraulic mechanisms to the gates after the accident, but they also failed to inspect or maintain these devices. Defendants should have identified the dangerous condition, safety issue, or defect with the self-closing mechanism that caused the gate to shove Plaintiff. Defendants do not properly inspect or maintain the gates. Defendants failure to properly inspect the gate created a dangerous condition. Defendants negligently maintained the gate and knew or should have known that it was a dangerous condition that could lead to injuries to pedestrians using it. Defendants knew or should have known that they needed to fix the dangerous condition. But for Defendants' breaches of their duty of care, Plaintiffs would not have been injured.</li> <li>Evidence:</li> <li>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</li> <li>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</li> <li>Eagan Decl. ¶2, Ex. "B", Deposition of</li> </ul>
26 27 28		Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25,
	- 62 PLAINTIFFS' SEPARATE STATEMENT OF DEFENDANTS' MOTION FO	MATERIAL FACTS IN OPPOSITION TO

Į		
	· · · · · · · · · · · · · · · · · · ·	
1		1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52:
2		18-22; 56-57: 18-23, 1; 59: 3-4;
3		Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19;
4 5		pp. 24-25: 11-14 and 25, 1-18; p. 41: 14- 16; pp. 74-75: 18-25, 3-15.
6		Re: the claim the Defendants allegedly
7		inspect and maintain the gates: Declaration of Ester Cervantes
8		("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.
9 10		MSJ P&A: "Defendantsmaintain
10		reasonable inspection and maintenance practices" p. 3: 17. "The Property
12		undergoes regular inspections to identify any dangerous conditions, safety
13		hazards, or maintenance issues (Facts 37- 41.) MSJ P&A p. 4: 5-6. "Defendants'
14		maintenance employees walk the properly on a daily basis and as a matter
15		of policy and practice, if they identify any risk or hazard at the Property, they
16		address the problem immediately. (Facts
17		41,43-45.)" MSJ P&A p. 4: 21-23. "Per policy and practice, maintenance
18		personnel address any safety hazards immediately. (Fact 44)." MSJ P&A p.
19		4: 25-27. "Defendants maintain and execute reasonable policies relating to
20		the maintenance and inspection of the Property and acted reasonably in
21		regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the
22		policies and practices have remained the
23		same from before, at the time of, and since the accident.
24		
25	59. The pedestrian gates close at a slow to moderate speed and some don't	59. Disputed.
26 27	even close all the way because they	Evidence:
27 28		
20	- 63	
	PLAINTIFFS' SEPARATE STATEMENT OF DEFENDANTS' MOTION FOR	

.

1	close so slow and with such little force.	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
2	Evidence:	Barriga Decl. ¶¶ 1-4; Defendants knew
4	Nguyen Decl. ¶ 7. Kumar Decl. ¶ 6; Cervantes Decl. ¶ 6.	the gate was hitting pedestrians as early as 2014;
5		Eagan Decl. ¶ 2, Ex. "B", Deposition of
6		Mark Davila, pp. 11-12: 22-23, 5-17; p. 16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25,
7 8		1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52:
9		18-22; 56-57: 18-23, 1; 59: 3-4;
10		Eagan Decl., ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19; pp. 24-25: 11-14 and 25, 1-18; p. 41: 14-
11		16; pp. 74-75: 18-25, 3-15.
12		
13	60. There are 354 Units at the Property and hundreds if not thousands of	60. Undisputed as to the number of units, but Disputed as to the number of
14	people walk through the pedestrian gates every month.	pedestrians that walk through the pedestrian gates every month due to lack
15	Evidence:	of personal knowledge.
16	Nguyen Decl. ¶ 17; Kumar Decl. ¶ 14.	
17 18	61. Prior to the Incident, no one had	61. Disputed because, without limitation,
10 19	reported any defect or dangerous condition with the pedestrian gates	Juan Molina Barriga and his father reported the dangerous gate to security in
20	at the Property to Defendants.	2014. Also, properly-functioning "Self- closing" gates should not shove
20	Evidence: Declaration of Esther Cervantes.	pedestrians. Also, disputed because Defendants do not properly inspect or
22	("Cervantes Decl.") ¶¶ 20, 22; Nguyen Decl. ¶ 16; Kumar Decl. ¶¶ 13; Lewis	maintain the gates. They did not then, and they do not now. Defendants knew
23	Decl. ¶ 4.	or should have known about the
24		dangerous condition. Defendants knew or should have known they needed to
25		repair the dangerous condition to prevent possible injuries to pedestrians. But for
26		Defendants' breaches of their duty of care, Plaintiffs would not have been
27		injured.
28		· · · · · · · · · · · · · · · · · · ·
	- 64 PLAINTIFFS' SEPARATE STATEMENT OF	
	DEFENDANTS' MOTION FO	R SUMMARY JUDGEMENT

1	Evidence:
2	Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
3	
4 5	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
6	Eagan Decl. ¶ 2, Ex. "B", Deposition of
7	Mark Davila, pp. 11-12: 22-23, 5-17; p.
8	16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25, 1 2, 11 25: p. 27: 1, 15: p. 40: 8, 15: p.
9	1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18 22: 56 57: 18 22: 1: 50: 2 4:
10	18-22; 56-57: 18-23, 1; 59: 3-4;
11	Eagan Decl. ¶ 3, Ex. "C" Deposition of
12	Ester Cervantes, p. 10: 3-13; p. 12: 9-19; pp. 24-25: 11-14 and 25, 1-18; p. 41: 14-
13	16; pp. 74-75: 18-25, 3-15.
	Re: the claim the Defendants allegedly
14	inspect and maintain the gates: Declaration of Ester Cervantes
15	("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16,
16	17.
17	MSJ P&A: "Defendantsmaintain
18	reasonable inspection and maintenance practices" p. 3: 17. "The Property
19	undergoes regular inspections to identify
20	any dangerous conditions, safety hazards, or maintenance issues (Facts 37-
	41.) MSJ P&A p. 4: 5-6. "Defendants'
21	maintenance employees walk the properly on a daily basis and as a matter
22	of policy and practice, if they identify
23	any risk or hazard at the Property, they address the problem immediately. (Facts
24	41,43-45.)" MSJ P&A p. 4: 21-23.
25	"Per policy and practice, maintenance personnel address any safety hazards
26	immediately. (Fact 44)." MSJ P&A p.
	4: 25-27. "Defendants maintain and execute reasonable policies relating to
27	the maintenance and inspection of the
28	- 65 -
	PLAINTIFFS' SEPARATE STATEMENT OF MATERIAL FACTS IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGEMENT

1 2 3 4		Property and acted reasonably in regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the policies and practices have remained the same from before, at the time of, and since the accident.
5	62. Prior to the Incident, no one had	62. Disputed because, without limitation,
6	reported being hit, injured, or	Juan Molina Barriga and his father
7	suffering any other accident involving the pedestrian gates at	reported the dangerous gate to security in 2014. Also, properly-functioning "Self-
8	Property to Defendants.	closing" gates should not shove pedestrians. Also, disputed because
9	Evidence: Declaration of Esther Cervantes.	Defendants do not properly inspect or maintain the gates. They did not then,
10	("Cervantes Decl.") ¶¶ 20-22; Nguyen Decl. ¶ 16; Kumar Decl. ¶¶ 13; Lewis	and they do not now. Defendants knew or should have known about the
11	Decl. $\P$ 4-6.	dangerous condition. Defendants knew
12		or should have known they needed to repair the dangerous condition to prevent
13		possible injuries to pedestrians. But for Defendants' breaches of their duty of
14		care, Plaintiffs would not have been injured.
15		
16		Evidence:
17		Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
18		Barriga Decl. ¶¶ 1-4; Defendants knew
19 00		the gate was hitting pedestrians as early as 2014;
20		
21 22		Eagan Decl. ¶ 2, Ex. "B", Deposition of Mark Davila, pp. 11-12: 22-23, 5-17; p.
22		16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp. 24-25: 8-25, 1; pp. 35-36: 14-16, 22-25,
23 24		1-2, 11-25; p. 37: 1-15; p. 40: 8-15; p. 41: 1-10; p. 48: 15-21; p. 51: 23-25; 52:
25		18-22; 56-57: 18-23, 1; 59: 3-4;
26		Eagan Decl. ¶ 3, Ex. "C" Deposition of
27		Ester Cervantes, p. 10: 3-13; p. 12: 9-19; pp. 24-25: 11-14 and 25, 1-18; p. 41: 14-
28		16; pp. 74-75: 18-25, 3-15.
	- 6 PLAINTIFFS' SEPARATE STATEMENT O	
	DEFENDANTS' MOTION FO	

1 2 3 4 5		Re: the claim the Defendants allegedly inspect and maintain the gates:
6 7 8 9 10 11 12 13 14 15 16		Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16 17. MSJ P&A: "Defendantsmaintain reasonable inspection and maintenance practices" p. 3: 17. "The Property undergoes regular inspections to identif any dangerous conditions, safety hazards, or maintenance issues (Facts 3' 41.) MSJ P&A p. 4: 5-6. "Defendants" maintenance employees walk the properly on a daily basis and as a matter of policy and practice, if they identify any risk or hazard at the Property, they address the problem immediately. (Fact 41,43-45.)" MSJ P&A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards immediately. (Fact 44)." MSJ P&A p 4: 25-27. "Defendants maintain and execute reasonable policies relating to the maintenance and inspection of the Property and acted reasonably in
17 18 19		regularly inspecting the gates." MSJ P&A p. 9: 4-6: Admitting that the policies and practices have remained the same from before, at the time of, and since the accident.
20		
21 I 22 23 24	Dated: February 25, 2020	LAW OFFICES OF JACOB EMRANI A Professional Corporation By:
25		ARMANDO BARAJAS
26		
27		
28		- 67 -

1	PROOF OF SERVICE
2	STATE OF CALIFORNIA, COUNTY OF LOS ANGELES
3	At the time of service, I was over 18 years of age and not a party to this action. I am
4	employed in the County of Los Angeles, State of California. My business address is 714 W. Olympic Blvd., Suite 300, Los Angeles, CA 90015.
5	The fax number or electronic service address from which I served the document(s) is: (213) 748-8879 or <i>Janette@calljacob.com</i> .
6	On February 25, 2020, I served true copies of the following document(s) described as
7 8	PLAINTIFFS' SEPARATE STATEMENT OF MATERIAL FACTS IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT on the interested parties in this action as follows:
9	SEE ATTACHED SERVICE LIST
10	<b>BY MAIL:</b> I enclosed the document(s) in a sealed envelope or package addressed to the persons
11	at the addresses listed on the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with The Law Offices of Jacob
12	Emrani's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of
13	business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
14	✓ BY OVERNIGHT DELIVERY: I enclosed the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed on
15	the Service List. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
16	<b>BY MESSENGER SERVICE</b> : I served the document(s) by placing them in an envelope or package addressed to the persons at the addresses listed on the Service List and providing them to
17	a professional messenger service for service.
18	<b>BY PERSONAL SERVICE</b> : I personally delivered the document(s) to the persons at the addresses listed on the Service List. (1) for a party represented by an attorney, delivery was made
19	to the attorney or at the attorney's office by leaving the document(s) in an envelope or package, which was clearly labeled to identify the attorney being served, with a receptionist or an individual
20	in charge of the office, between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the document(s) at the party's residence with
21	some person not younger than 18 years of age between the hours of eight in the morning and six in the evening!
22	BY ELECTRONIC SERVICE: Based on a court order or an agreement of the parties to accept
23	electronic service, I caused the document(s) to be sent to the persons at the electronic service addresses listed on the Service List.
24	I declare under penalty of perjury under the laws of the State of California that the foregoing is
25	true and correct.
26 27	λ.
27	
28	
	PROOF OF SERVICE

I	
	27 27
1	
2	Executed on February 25, 2020, at Los Angeles, California.
3	California.
4	
5	
6	
7	
8	
9	1
10	
11	
12	
13	
14	I.
15	
16	
17	14
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
	PROOF OF SERVICE
Π.	

1	SERVICE LIST		
2	Maria Ramirez, et al.vs. VPM Management, Inc., et al. Case No. 19CV360372		
3			
4	Frank J. Coughlin, frank.coughlin@rwclegal.com		
5	Steven E. Bolanos, <u>steve.bolanos@rwclegal.com</u> RUZICKA, WALLACE & COUGHLIN, LLP		
6	1551 N. Tustin Ave., Suite 480 Santa Ana, CA 92705		
7	(714) 558-7886		
8	Attorney for Defendant VPM MANAGEMENT, INC. AND		
8 9	KDF VALLEY PALMS, L.P (erroneously sued as Valley Palm Apartment)		
-			
10 11			
11			
12			
13	С (		
14	S		
15			
16	· f		
17	!		
18			
19			
20			
21			
22			
23			
24			
25			
26			
. 27			
28			
	5 PROOF OF SERVICE		

714 W. OLYMPIC BLVD., SUITE 300, LOS ANGELES, CA 90015 Telephone: (213) 748-7734; Facsimile: (213) 748-8879 ~ ,