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10 MARIA RAMIREZ and Haydee Aviles Ramirez  
11 as Guardian Ad Litem for ARMANDO BARAJAS  
12

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **COUNTY OF SANTA CLARA**  
15

16 MARIA RAMIREZ and HAYDEE  
17 AVILES RAMIREZ as Guardian Ad  
18 Litem for ARMANDO BARAJAS,  
19

20 Plaintiffs,  
21

22 v.  
23

24 VPM Management, Inc.; Valley Palm  
25 Apartments, DOES 1 to 50,  
26

27 Defendants.  
28

CASE NO.: 17CV314304

*Assigned to Hon. Mary E. Arand  
Dept.: 9*

**PLAINTIFFS' SEPARATE  
STATEMENT OF MATERIAL  
FACTS IN OPPOSITION TO  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGEMENT**

Hearing Date: March 10, 2020  
Dept.: 9  
Time: 9:00 a.m.

Complaint Filed: August 10, 2017  
Settlement Conf.: March 11, 2016  
Trial date: March 16, 2020

1 Plaintiffs MARIA RAMIREZ ("RAMIREZ") and Haydee Aviles Ramirez as  
2 Guardian Ad Litem for Armando Barajas (collectively "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 Judgment on Plaintiffs' Premises Liability and**  
7 **General Negligence Causes of Action Because Plaintiffs Cannot Establish the**  
8 **Existence of a Dangerous Condition.**

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
1. Plaintiff was a resident at Valley Palm Apartments ("Premises" or "Property") at the time of the incident alleged in the Complaint.  <u>Evidence:</u> Declaration of Steven E. Bolanos ("Bolanos Decl.") ¶ 2, Exhibit A (June 11, 2018 Deposition Transcript of Plaintiff Maria Ramirez ("Ramirez Depo.")), 9:21-24.)	1. Undisputed.
2. Plaintiffs allege that they suffered injury at the Premises after a self-closing pedestrian gate allegedly shoved Ramirez and caused them to fall on August 11, 2015 ("Incident").  <u>Evidence:</u> Plaintiffs' Judicial Council Form Complaint ("Complaint"), pg. 4; Bolanos Decl. ¶ 2, Ramirez Depo., 17:18-18:2.	2. Undisputed.
3. Ramirez admits that while she was pushing her grandson's push car stroller with one hand, she was not	3. Undisputed.

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
<p>doing anything with her other hand as she walked through the gate.</p> <p><u>Evidence:</u> Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 22:10-14.)</p>	
<p>4. Ramirez lived at the Property for 5 years.</p> <p><u>Evidence:</u> Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 11: 8-10.)</p>	<p>4. Undisputed.</p>
<p>5. Ramirez admits that, before the Incident, she had used other pedestrian gates at the Property.</p> <p><u>Evidence:</u> Bolanos Decl., ¶ 2, Exhibit A (Ramirez Depo., 20:20-24;21:2-3, 7.)</p>	<p>5. Undisputed.</p>
<p>6. 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.</p> <p><u>Evidence:</u> Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 21:9-10, 13; 28:8-9, 12.)</p>	<p>6. Undisputed.</p>
<p>7. Plaintiffs have adduced no evidence or facts showing the pedestrian gate constituted a dangerous condition.</p> <p><u>Evidence:</u> Bolanos Decl. ¶¶ 3-8, Exhibits B-G (Plaintiff's Responses to Defendants' Discovery Requests); Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 29:9-19.)</p>	<p>7. Disputed. Defendants do not properly inspect or maintain the gates. Disputed also because Defendants knew or should have known about the dangerous condition with the pedestrian gate at the Premises. Defendants' security guards knew about the gate hitting pedestrians. Defendants knew or should have known they needed to fix the dangerous condition to prevent possible injuries to pedestrians. Defendants did not properly inspect the gate or maintain the gate. But</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>for Defendants' breaches of their duty of care, Plaintiffs would not have been injured.</p> <p><u>Evidence:</u></p> <p>Declaration of Maria Ramirez ("Ramirez Decl."), ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Declaration of Juan Molina Barriga ("Barriga Decl.") ¶¶ 1-4;</p> <p>Declaration of Travis R. Eagan ("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;</p> <p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;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</p>

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	<p>any risk or hazard at the Property, they address the problem immediately. (Facts 41,43-45.)” MSJ P&amp;A p. 4: 21-23. “Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44).” MSJ P&amp;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&amp;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.</p>
<p>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.”</p> <p><u>Evidence</u> Bolanos Decl. ¶¶ 3-8, Exhibits B-G (Plaintiff’s Responses to Defendants’ Discovery Requests).</p>	<p>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.</p> <p><u>Evidence:</u></p> <p>Declaration of Maria Ramirez (“Ramirez Decl.”), ¶¶ 3-13 and Ex. “A” pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014.</p>

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	<p>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;</p> <p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;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&amp;A p. 9: 4-6: Admitting that the policies and practices have remained the</p>

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	same from before, at the time of, and since the accident.
<p>9. Ramirez admits in her deposition that she doesn't know if the pedestrian gate malfunctioned or not.</p> <p><u>Evidence:</u> Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 29: 16, 19.)</p>	<p>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.</p> <p><u>Evidence:</u></p> <p>Declaration of Maria Ramirez ("Ramirez Decl."), ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain reasonable inspection and maintenance practices...." p. 3: 17. "The Property</p>

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	<p>undergoes regular inspections to identify any dangerous conditions, safety hazards, or maintenance issues (Facts 37-41.) MSJ P&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;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&amp;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.</p>
<p>10. Ramirez admits at her deposition that she doesn't know if there was "anything wrong" with the pedestrian gate.</p> <p><u>Evidence:</u> Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 29: 9-10, 14.)</p>	<p>10. Undisputed that it was her lay-person earlier testimony. Disputed re: whether there was anything wrong with the pedestrian gate. Defendants knew or should have known about the dangerous condition with the pedestrian gate at the Premises. Defendants knew or should 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.</p> <p><u>Evidence:</u></p>



MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>Ramirez Decl., ¶¶ 3-13, Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p>
<p>11. Ramirez never complained to Defendants about concerns with the pedestrian gate prior to the Incident.</p> <p><u>Evidence:</u> Declaration of Phong Nguyen ("Nguyen Decl.") ¶ 16; Declaration of Monikca Kumar ("Kumar Decl.") ¶ 13; Declaration of Jerry Lewis ("Lewis Decl.") ¶ 4.</p>	<p>11. Undisputed.</p>
<p>12. There are 354 Units at the Property and hundreds if not thousands of people walk through the pedestrian gates every month.</p> <p><u>Evidence:</u> Nguyen Decl. ¶ 17; Kumar Decl. ¶ 14.</p>	<p>12. Undisputed as to the number of apartments, but irrelevant. Disputed (due to lack of knowledge) as to alleged number of pedestrians. Objection: Improper conjunctive statement.</p>
<p>13. Prior to the Incident, no one had reported any defect or dangerous condition with the pedestrian gates at the Property to Defendants.</p>	<p>13. 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</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
<p><u>Evidence:</u> Declaration of Esther Cervantes. ("Cervantes Decl.") ¶¶ 20, 22; Nguyen Decl. ¶ 16; Kumar Decl. ¶¶ 13; Lewis Decl. ¶ 4.</p>	<p>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.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl., ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain reasonable inspection and maintenance</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>practices....” p. 3: 17. “The Property undergoes regular inspections to identify any dangerous conditions, safety hazards, or maintenance issues (Facts 37-41.) MSJ P&amp;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&amp;A p. 4: 21-23. “Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44).” MSJ P&amp;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&amp;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.</p>
<p>14. Prior to the Incident, no one had reported being hit, injured, or suffering any other accident involving the pedestrian gates at Property to Defendants.</p> <p><u>Evidence:</u> Declaration of Esther Cervantes. (“Cervantes Decl.”) ¶¶ 20-22; Nguyen Decl. ¶ 16; Kumar Decl. ¶¶ 13; Lewis Decl. ¶ 4-6.</p>	<p>14. 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.</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p><u>Evidence:</u></p> <p>Ramirez Decl., ¶¶ 3-13, Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p>
<p>15. Onsite employees never noticed any defect or dangerous condition regarding the self-closing pedestrian gates at the Property.</p> <p><u>Evidence:</u> Nguyen Decl. ¶ 13; Kumar Decl. ¶ 12-13.</p>	<p>15. 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.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;A p. 4: 25-27. "...Defendants maintain and execute reasonable policies relating to the maintenance and inspection of the</p>

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	<p>Property and acted reasonably in regularly inspecting the gates.” MSJ P&amp;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.</p>
<p>16. Monthly inspections by the onsite manager of the common areas of the Property, including pedestrian gates, never revealed any defects or dangerous condition with the pedestrian gates at the Property.</p> <p><u>Evidence:</u> Cervantes Decl. ¶10, 18; Nguyen Decl. ¶ 10.</p>	<p>16. 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 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.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. “A” pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p>

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	<p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;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&amp;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.</p>
17. 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	17. 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

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
<p data-bbox="414 352 824 426">dangerous condition with the pedestrian gates at the Property.</p> <p data-bbox="316 457 669 531"><u>Evidence:</u> Cervantes Decl. ¶ 8-11, 18.</p>	<p data-bbox="901 352 1433 762">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.</p> <p data-bbox="901 793 1031 835"><u>Evidence:</u></p> <p data-bbox="901 867 1356 951">Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p data-bbox="901 982 1417 1098">Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p data-bbox="901 1129 1425 1392">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;</p> <p data-bbox="901 1423 1433 1581">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.</p> <p data-bbox="901 1612 1425 1791">Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p data-bbox="901 1822 1409 1938">MSJ P&amp;A: "Defendants ...maintain reasonable inspection and maintenance practices...." p. 3: 17. "The Property</p>



MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>undergoes regular inspections to identify any dangerous conditions, safety hazards, or maintenance issues (Facts 37-41.) MSJ P&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;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&amp;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.</p>
<p>18. Onsite personnel never identified any dangerous condition or defect with the pedestrian gates during their daily walkthroughs of the Property.</p> <p><u>Evidence</u> Kumar Decl. ¶ 9; Nguyen Decl. ¶ 9-10; Cervantes Decl. ¶ 23.</p>	<p>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.</p> <p><u>Evidence:</u></p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;A p. 4: 5-6. "Defendants' maintenance employees walk the property 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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;A p. 4: 25-27. "...Defendants maintain and</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>execute reasonable policies relating to the maintenance and inspection of the Property and acted reasonably in regularly inspecting the gates.” MSJ P&amp;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.</p>
<p>19. Quarterly inspections conducted by the Affordably Housing Inc. never revealed any dangerous condition or defect with the pedestrian gates at the Property.</p> <p><u>Evidence</u> Kumar Decl. ¶ 8; Nguyen Decl. ¶ 12; Cervantes Decl. ¶ 11, 18.</p>	<p>19. Undisputed, but they should have noticed that 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.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. “A” pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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.</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>41: 1-10; p. 48: 15-21; p. 51: 23-25; 52: 18-22; 56-57: 18-23, 1; 59: 3-4;</p> <p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;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&amp;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.</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
<p>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.</p> <p><u>Evidence</u>            Nguyen Decl. ¶ 11; Lewis Decl. ¶ 3.</p>	<p>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, 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.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;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&amp;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.</p>
<p>21. The pedestrian gates close at a slow to moderate speed and some don't even close all the way because they close so slow and with such little force.</p> <p><u>Evidence:</u> Nguyen Decl. ¶ 7. Kumar Decl. ¶ 6; Cervantes Decl. ¶ 6.</p>	<p>21. Disputed.</p> <p><u>Evidence:</u> Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p>

**ISSUE 2: Defendants are Entitled to Judgment on Plaintiffs' Premises Liability and General Negligence Causes of Action Because Plaintiffs Cannot Establish Breach.**

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
<p>22. Ramirez lived at the Property for 5 years.</p> <p><u>Evidence:</u> Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 11: 8-10.)</p>	<p>22. Undisputed.</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
<p>23. Ramirez admits that, before the Incident, she had used other pedestrian gates at the Property.</p> <p><u>Evidence:</u> Bolanos Decl., ¶ 2, Exhibit A (Ramirez Depo., 20:20-24; 21:2-3, 7.)</p>	<p>23. Undisputed.</p>
<p>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.</p> <p><u>Evidence:</u> Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 21:9-10, 13; 28:8-9, 12.)</p>	<p>24. Undisputed that this was her earlier testimony but Disputed because she has since gone back to the property to take a 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 the gate created a dangerous condition. Not all gates operate in the same way.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p>



MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
<p>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.</p> <p><u>Evidence:</u> Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 22:12-14.)</p>	<p>25. Undisputed.</p>
<p>26. Plaintiffs have adduced no evidence or facts showing that Defendants breached any duty or acted below the required standard of care.</p> <p><u>Evidence:</u> Bolanos Decl. ¶¶ 3-8, Exhibits B-G (Plaintiff's Responses to Defendants' Discovery Requests); Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 29:9-19.)</p>	<p>26. Disputed. Objection: Disjunctive. Defendants do not properly inspect or maintain the gates. They did not then, and they do not now.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>MSJ P&amp;A: "Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;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&amp;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.</p>
<p>27. Plaintiffs have not produced any evidence or facts to show that Defendants acted unreasonably with respect to maintaining the gates in safe condition.</p> <p><u>Evidence:</u>  Bolanos Decl. ¶¶ 3-8, Exhibits B-G (Plaintiff's Responses to Defendants' Discovery Requests).</p>	<p>27. Disputed. Defendants do not properly inspect or maintain the gates. They did not they, and they do not now.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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.</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>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;</p> <p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;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&amp;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.</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
<p>28. Ramirez admits in her deposition that she doesn't know if the pedestrian gate malfunctioned or not.</p> <p><u>Evidence:</u> Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 29: 16, 19.)</p>	<p>28. Undisputed that this was her earlier lay-person testimony, and that it calls for expert testimony. But a properly-functioning, "self-closing" gate should not shove pedestrians.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>Declaration of Travis R. Eagan ("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;</p> <p>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.</p>
<p>29. Ramirez admits at her deposition that she doesn't know if there was "anything wrong" with the pedestrian gate.</p> <p><u>Evidence:</u> Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 29: 9-10, 14.)</p>	<p>29. Undisputed that this was her lay-person testimony, and that it calls for expert testimony. But a properly-functioning, "self-closing" gate should not shove pedestrians.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4;</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>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;</p> <p>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.</p>
<p>30. 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.</p> <p><u>Evidence:</u>            Nguyen Decl. ¶ 11; Lewis Decl. ¶ 3.</p>	<p>30. 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.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;A p. 4: 25-27. "...Defendants maintain and execute reasonable policies relating to the maintenance and inspection of the Property and acted reasonably in</p>

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.
<p>31. The pedestrian gates close at a slow to moderate speed and some don’t even close all the way because they close so slow and with such little force.</p> <p><u>Evidence:</u>            Nguyen Decl. ¶ 7. Kumar Decl. ¶ 6;            Cervantes Decl. ¶ 6.</p>	<p>31. Disputed.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. “A” pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p>
<p>32. Ramirez never complained to Defendants about concerns with the pedestrian gate prior to the Incident.</p> <p><u>Evidence:</u>            Declaration of Phong Nguyen (“Nguyen Decl.”) ¶ 16; Declaration of Monikca Kumar (“Kumar Decl.”) ¶ 13; Declaration of Jerry Lewis (“Lewis Decl.”) ¶ 4.</p>	<p>32. Undisputed.</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
<p>33. There are 354 Units at the Property and hundreds if not thousands of people walk through the pedestrian gates every month.</p> <p><u>Evidence:</u> Nguyen Decl. ¶ 17; Kumar Decl. ¶ 14.</p>	<p>33. Undisputed as to the number of apartments, but irrelevant. Disputed (due to lack of knowledge) as to alleged number of pedestrians. Objection: Improper conjunctive statement.</p>
<p>34. Prior to the Incident, no one had reported any defect or dangerous condition with the pedestrian gates at the Property to Defendants.</p> <p><u>Evidence:</u> Declaration of Esther Cervantes. ("Cervantes Decl.") ¶¶ 20, 22; Nguyen Decl. ¶ 16; Kumar Decl. ¶¶ 13; Lewis Decl. ¶ 4.</p>	<p>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.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p>



MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;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&amp;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.</p>
35. Prior to the Incident, no one had reported being hit, injured, or suffering any other accident	35. 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

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
<p>involving the pedestrian gates at Property to Defendants.</p> <p><u>Evidence:</u> Declaration of Esther Cervantes. ("Cervantes Decl.") ¶¶ 20-22; Nguyen Decl. ¶ 16; Kumar Decl. ¶¶ 13; Lewis Decl. ¶ 4-6.</p>	<p>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.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain reasonable inspection and maintenance</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>practices....” p. 3: 17. “The Property undergoes regular inspections to identify any dangerous conditions, safety hazards, or maintenance issues (Facts 37-41.) MSJ P&amp;A p. 4: 5-6. “Defendants’ maintenance employees walk the property 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&amp;A p. 4: 21-23. “Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44).” MSJ P&amp;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&amp;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.</p>
<p>36. Onsite employees never noticed any defect or dangerous condition regarding the self-closing pedestrian gates at the Property.</p> <p><u>Evidence:</u>            Nguyen Decl. ¶ 13; Kumar Decl. ¶ 12-13.</p>	<p>36. 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.</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;A p. 4: 5-6. "Defendants' maintenance employees walk the property 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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>...immediately. (Fact 44).” MSJ P&amp;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&amp;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.</p>
<p>37. Monthly inspections by the onsite manager of the common areas of the Property, including pedestrian gates, never revealed any defects or dangerous condition with the pedestrian gates at the Property.</p> <p><u>Evidence:</u> Cervantes Decl. ¶18; Nguyen Decl. ¶ 10.</p>	<p>37. Disputed. Defendants knew that the gate was not closing all the way, but they did not further inspect it or fix it. 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.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. “A” pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	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.
<p>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.</p> <p><u>Evidence:</u> Cervantes Decl. ¶ 8-11, 18.</p>	<p>38. Disputed, because the gate was not properly closing as admitted by the Regional Manager who walked the monthly visits with the onsite manager. Defendants did not further inspect or fix the gate. 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.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19;</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>pp. 24-25: 11-14 and 25, 1-18; p. 41: 14-16; pp. 74-75: 18-25, 3-15.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;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&amp;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.</p>
<p>39. Quarterly inspections conducted by the Affordably Housing Inc. never revealed any dangerous condition or defect with the pedestrian gates at the Property.</p> <p><u>Evidence:</u></p>	<p>39. Disputed. 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</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
<p>Kumar Decl. ¶ 8; Nguyen Decl. ¶ 12. Cervantes Decl. ¶ 11, 18.</p>	<p>condition to prevent possible injuries to pedestrians. But for Defendants' breaches of their duty of care, Plaintiffs would not have been injured.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;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</p>



MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>any risk or hazard at the Property, they address the problem immediately. (Facts 41,43-45.)” MSJ P&amp;A p. 4: 21-23. “Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44).” MSJ P&amp;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&amp;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.</p>
<p>40. The onsite manager regularly walked through the Property looking for safety concerns and never identified any defects or dangerous conditions with the pedestrian gates at the Property.</p> <p><u>Evidence:</u> Nguyen Decl. ¶¶ 8, 10.</p>	<p>40. 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 and injure 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.</p> <p><u>Evidence:</u></p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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&amp;A: "Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;A p. 4: 25-27. "...Defendants maintain and execute reasonable policies relating to the maintenance and inspection of the Property and acted reasonably in</p>

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.
<p>41. Onsite personnel never identified any dangerous condition or defect with the pedestrian gates during their daily walkthroughs of the Property.</p> <p><u>Evidence</u> Kumar Decl. ¶ 9; Nguyen Decl. ¶ 9-10; Cervantes Decl. ¶ 23.</p>	<p>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, 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.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. “A” pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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,</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>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;</p> <p>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&amp;A: "Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;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&amp;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.</p>
42. As a matter of policy and practice, tenants may report, and often do report, dangerous conditions or any maintenance problems to onsite	42. Disputed due to lack of personal knowledge.

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
<p>management and maintenance personnel.</p> <p><u>Evidence:</u> Cervantes Decl. ¶ 15; Nguyen Decl. ¶ 14; Kumar Decl. ¶ 10.</p>	
<p>43. As a matter of policy and practice, onsite maintenance personnel respond to address maintenance issues 24 hours insofar as practicable.</p> <p><u>Evidence:</u> Nguyen Decl. ¶ 15; Kumar Decl. ¶ 11; Cervantes Decl. ¶ 16.</p>	<p>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.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>Eagan Decl. ¶ 3, Ex. "C" Deposition of Ester Cervantes, p. 10: 3-13; p. 12: 9-19;</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>pp. 24-25: 11-14 and 25, 1-18; p. 41: 14-16; pp. 74-75: 18-25, 3-15.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;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&amp;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.</p>
<p>44. As a matter of policy and practice, any safety issues or dangerous conditions are addressed immediately by maintenance personnel or outside vendors if necessary.</p>	<p>44. 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</p>

<b>MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE</b>	<b>OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE</b>
<p><u>Evidence:</u> Cervantes Decl. ¶ 14; Nguyen Decl. ¶ 14.</p>	<p>condition to prevent possible injuries to pedestrians. But for Defendants' breaches of their duty of care, Plaintiffs would not have been injured.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;A p. 4: 5-6. "Defendants' maintenance employees walk the property on a daily basis and as a matter of policy and practice, if they identify</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>any risk or hazard at the Property, they address the problem immediately. (Facts 41,43-45.)” MSJ P&amp;A p. 4: 21-23. “Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44).” MSJ P&amp;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&amp;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.</p>
<p>45. If a safety hazard or dangerous condition on the Property cannot be addressed immediately, maintenance personnel immediately place caution tape and cones around the area until the condition can be repaired.</p> <p><u>Evidence:</u> Cervantes Decl. ¶ 17; Kumar Decl. ¶ 11; Nguyen Decl. ¶ 15.</p>	<p>45. Disputed due to lack of personal knowledge</p>
<p>46. The Regional Supervisor received copies of all inspection reports by onsite staff and AHA, and ensured that any needed repairs were performed in a timely fashion.</p> <p><u>Evidence:</u> Cervantes Decl. ¶ 12.</p>	<p>46. 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.</p> <p><u>Evidence:</u></p>



MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
	<p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;A p.</p>

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING 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 the same from before, at the time of, and since the accident.

**ISSUE 3: Defendants are Entitled to Judgment on Plaintiffs' Premises Liability and General Negligence Causes of Action Because Plaintiffs Cannot Establish Causation.**

MOVING PARTY'S PRINCIPAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE 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.)	47. Undisputed.
48. Ramirez admits that, before the Incident, she had used other pedestrian gates at the Property.  <u>Evidence:</u> Bolanos Decl., ¶ 2, Exhibit A (Ramirez Depo., 20:20-24;21:2-3, 7.)	48. Undisputed.
49. 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.	49. Disputed. Not all gates operate in the same way.  <u>Evidence:</u>

<p>1 <u>Evidence:</u>  2 Bolanos Decl. ¶ 2, Exhibit A (Ramirez  3 Depo., 21:9-10, 13; 28:8-9, 12.)</p>	<p>Ramirez Decl. ¶¶ 3-13 and Ex. "A"  pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew  the gate was hitting pedestrians as early  as 2014;</p> <p>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;</p> <p>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.</p>
<p>13 50. Ramirez admits that while she was  14 pushing her grandson's push car  15 stroller with one hand, she was not  16 doing anything with her other hand  as she walked through the gate.</p> <p>17 <u>Evidence:</u>  18 Bolanos Decl. ¶ 2, Exhibit A (Ramirez  Depo., 22:12-14.)</p>	<p>50. Undisputed.</p>
<p>19 51. Plaintiffs have adduced no  20 evidence or facts showing the  21 pedestrian gate constituted a  dangerous condition.</p> <p>22 <u>Evidence:</u>  23 Bolanos Decl. ¶¶ 3-8, Exhibits B-G  24 (Plaintiff's Responses to Defendants'  Discovery Requests); Bolanos Decl. ¶ 2,  Exhibit A (Ramirez Depo., 29:9-19.)</p>	<p>51. Disputed. Objection: Disjunctive.  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.</p> <p><u>Evidence:</u></p>

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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: “Defendants ...maintain 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 property 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

1		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.
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4	52. Plaintiff's discovery responses are	52. Disputed. Expert testimony on this
5	factually devoid of information	subject has not yet been rendered in this
6	regarding how the pedestrian gate	action. Disputed also because
7	malfunctioned or constituted a	Defendants do not properly inspect or
8	"dangerous condition," beyond	maintain the gates. They did not then,
9	conclusory allegations that it	and they do not now. Defendants knew
10	"malfunctioned."	or should have known about the
11		dangerous condition. Defendants knew
12	<u>Evidence</u>	or should have known they needed to
13	Bolanos Decl. ¶¶ 3-8, Exhibits B-G	repair the dangerous condition to prevent
14	(Plaintiff's Responses to Defendants'	possible injuries to pedestrians. But for
15	Discovery Requests).	Defendants' breaches of their duty of
16		care, Plaintiffs would not have been
17		injured.
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19		<u>Evidence:</u>
20		Ramirez Decl. ¶¶ 3-13 and Ex. "A"
21		pictures;
22		Barriga Decl. ¶¶ 1-4; Defendants knew
23		the gate was hitting pedestrians as early
24		as 2014;
25		Eagan Decl. ¶ 2, Ex. "B", Deposition of
26		Mark Davila, pp. 11-12: 22-23, 5-17; p.
27		16: 1-4; pp. 22-23: 25, 1-6, 14-24; pp.
28		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:

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	<p>Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;A p. 4: 5-6. "Defendants' maintenance employees walk the property 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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;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&amp;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.</p>
<p>53. Plaintiffs have adduced no evidence or facts showing that Defendants breached any duty or acted below the required standard of care.</p> <p><u>Evidence</u> Bolanos Decl. ¶¶ 3-8, Exhibits B-G (Plaintiff's Responses to Defendants' Discovery Requests).</p>	<p>53. Disputed. Objection: Disjunctive. Disputed also 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.</p> <p><u>Evidence:</u></p>

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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  
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Declaration of Ester Cervantes  
("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16,  
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MSJ P&A: "Defendants ...maintain  
reasonable inspection and maintenance  
practices...." p. 3: 17. "The Property  
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hazards, or maintenance issues (Facts 37-  
41.) MSJ P&A p. 4: 5-6. "Defendants'  
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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

1		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.
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4	54. Plaintiffs have not produced any evidence or facts showing that Defendants acted unreasonably with respect to maintaining the gates in safe condition.	54. Disputed because the gate was not properly closing as admitted by the Regional Manager who walked the monthly visits with the onsite manager. Disputed also 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.
5	<u>Evidence</u>	
6	Bolanos Decl. ¶¶ 3-8, Exhibits B-G (Plaintiff's Responses to Defendants' Discovery Requests).	
7		
8		<u>Evidence:</u>
9		Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
10		Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
11		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;
12		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.
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	<p>(“Cervantes Decl.”) ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: “Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. “Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44).” MSJ P&amp;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&amp;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.</p>
<p>55. Ramirez admits in her deposition that she doesn’t know if the pedestrian gate malfunctioned or not.</p> <p><u>Evidence:</u> Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 29: 16, 19.)</p>	<p>55. Undisputed that this was her earlier testimony. Disputed because 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.</p> <p><u>Evidence:</u></p>

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: "Defendants ...maintain 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 property 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

1		same from before, at the time of, and since the accident.
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4	56. Ramirez admits at her deposition that she doesn't know if there was "anything wrong" with the pedestrian gate.	56. Undisputed that this was her earlier testimony. Disputed because 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.
5	<u>Evidence:</u>	Defendants knew or should have known about the dangerous condition.
6	Bolanos Decl. ¶ 2, Exhibit A (Ramirez Depo., 29: 9-10, 14.)	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.
7		<u>Evidence:</u>
8		Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;
9		Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
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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- 16; pp. 74-75: 18-25, 3-15.
12		Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes
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	<p>(“Cervantes Decl.”) ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: “Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. “Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44).” MSJ P&amp;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&amp;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.</p>
<p>57. Prior to the incident, no defect or dangerous condition was ever identified during any of Defendants inspections and walkthroughs of the Property.</p> <p><u>Evidence:</u> Declaration of Esther Cervantes. (“Cervantes Decl.”) ¶¶ 20-22; Nguyen Decl. ¶ 16; Kumar Decl. ¶¶ 13; Lewis Decl. ¶ 4.</p>	<p>57. 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.</p>

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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: "Defendants ...maintain 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. (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

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	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.
<p>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.</p> <p><u>Evidence</u> Nguyen Decl. ¶ 11; Lewis Decl. ¶ 3.</p>	<p>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.</p> <p><u>Evidence:</u></p> <p>Ramirez Decl. ¶¶ 3-13 and Ex. “A” pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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,</p>

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	<p>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;</p> <p>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.</p> <p>Re: the claim the Defendants allegedly inspect and maintain the gates: Declaration of Ester Cervantes ("Cervantes Decl.") ¶¶ 8, 11, 13, 14, 16, 17.</p> <p>MSJ P&amp;A: "Defendants ...maintain 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&amp;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&amp;A p. 4: 21-23. "Per policy and practice, maintenance personnel address any safety hazards ...immediately. (Fact 44)." MSJ P&amp;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&amp;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.</p>
<p>59. The pedestrian gates close at a slow to moderate speed and some don't even close all the way because they</p>	<p>59. Disputed.</p> <p><u>Evidence:</u></p>

<p>close so slow and with such little force.</p> <p><u>Evidence:</u>          Nguyen Decl. ¶ 7. Kumar Decl. ¶ 6;          Cervantes Decl. ¶ 6.</p>	<p>Ramirez Decl. ¶¶ 3-13 and Ex. "A" pictures;</p> <p>Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;</p> <p>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;</p> <p>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.</p>
<p>60. There are 354 Units at the Property and hundreds if not thousands of people walk through the pedestrian gates every month.</p> <p><u>Evidence:</u>          Nguyen Decl. ¶ 17; Kumar Decl. ¶ 14.</p>	<p>60. Undisputed as to the number of units, but Disputed as to the number of pedestrians that walk through the pedestrian gates every month due to lack of personal knowledge.</p>
<p>61. Prior to the Incident, no one had reported any defect or dangerous condition with the pedestrian gates at the Property to Defendants.</p> <p><u>Evidence:</u>          Declaration of Esther Cervantes. ("Cervantes Decl.") ¶¶ 20, 22; Nguyen Decl. ¶ 16; Kumar Decl. ¶¶ 13; Lewis Decl. ¶ 4.</p>	<p>61. 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.</p>



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Re: the claim the Defendants allegedly inspect and maintain the gates:  
Declaration of Ester Cervantes  
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MSJ P&A: "Defendants ...maintain 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 property 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

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6	62. Prior to the Incident, no one had reported being hit, injured, or suffering any other accident involving the pedestrian gates at Property to Defendants.	62. 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.
7	<u>Evidence:</u>	<u>Evidence:</u>
8	Declaration of Esther Cervantes.	Ramirez Decl. ¶¶ 3-13 and Ex. “A” pictures;
9	(“Cervantes Decl.”) ¶¶ 20-22; Nguyen Decl. ¶ 16; Kumar Decl. ¶¶ 13; Lewis Decl. ¶ 4-6.	Barriga Decl. ¶¶ 1-4; Defendants knew the gate was hitting pedestrians as early as 2014;
10		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;
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policies and practices have remained the  
same from before, at the time of, and  
since the accident.

21 Dated: February 25, 2020

LAW OFFICES OF JACOB EMRANI  
A Professional Corporation

22  
23 By: 

Travis Eagan, Esq.  
Attorneys for Plaintiffs,  
MARIA RAMIREZ and Haydee Aviles  
Ramirez as Guardian Ad Litem for  
ARMANDO BARAJAS

**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 714 W. Olympic Blvd., Suite 300, Los Angeles, CA 90015.

The fax number or electronic service address from which I served the document(s) is: (213) 748-8879 or *Janette@calljacob.com*.

On February 25, 2020, I served true copies of the following document(s) described as **PLAINTIFFS' SEPARATE STATEMENT OF MATERIAL FACTS IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT** on the interested parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons 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 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 business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

☒ **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 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.

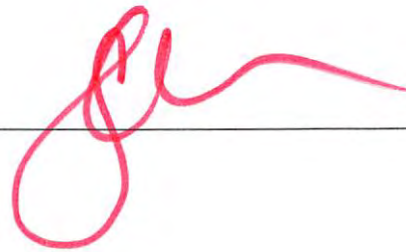
☐ **BY MESSENGER SERVICE:** I served the document(s) by placing them in an envelope or package addressed to the persons at the addresses listed on the Service List and providing them to a professional messenger service for service.

☐ **BY PERSONAL SERVICE:** 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 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 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 some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.

☐ **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept electronic service, I caused the document(s) to be sent to the persons at the electronic service addresses listed on the Service List.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 25, 2020, at Los Angeles,  
California.

A handwritten signature in red ink, consisting of a large loop followed by a series of smaller loops and a long horizontal stroke extending to the right.

**SERVICE LIST**

*Maria Ramirez, et al. vs. VPM Management, Inc., et al.*  
**Case No. 19CV360372**

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Attorney for Defendant VPM MANAGEMENT, INC. AND  
KDF VALLEY PALMS, L.P (erroneously sued as Valley  
Palm Apartment)