

OCT 09 2020

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Megan Auzat, David Auzat

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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 FOR THE COUNTY OF VENTURA  
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10 MEGAN AUZAT, DAVID AUZAT, ) CASE NO.  
11 Plaintiffs, )  
12 vs. ) COMPLAINT FOR DAMAGES  
13 MARILEE CHRISTINE GONZALEZ, )  
14 MARILEE R. CARRASCO, )  
15 IVAN CARRASCO, MERLONE GEIER )  
MANAGEMENT, LLC, MGP XII )  
16 MOUNTAINGATE, LLC, and )  
DOES 1 through 300, inclusive, )  
17 Defendants. )

18 Plaintiffs Megan Auzat and David Auzat ("Plaintiffs") hereby allege:

19 PRELIMINARY ALLEGATIONS:

- 20 1. The injury to Plaintiffs' person and property, as alleged herein, occurred in, on and  
21 upon the private property and premises entitled the Mountain Gate Plaza Shopping Center located at,  
22 on and adjacent to 2050 First Street, in the City of Simi Valley, County of Ventura, State of  
23 California.  
24 2. At all times herein mentioned, the streets, byways, traffic lanes of travel, access,  
25 egress, directional markings, traffic control devices and signals including stop signs, and roadways  
26 of the private property and premises, including the parking lot, of the Mountain Gate Plaza Shopping  
27 Center located at, on and adjacent to 2050 First Street, in the City of Simi Valley, County of Ventura.  
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1 State of California were and are private property and premises in the City of Simi Valley, County of  
2 Ventura, State of California (“Premises”).

3 3. All actions, events and occurrences took place, occurred on and/or at the Premises.

4 4. The true names or capacities, whether individual, corporate, associate, or otherwise,  
5 of Defendants sued herein as DOES 1 through 300 are unknown to Plaintiffs who, therefore, sue such  
6 Defendants by said fictitious names, and Plaintiffs will amend this complaint to show their true names  
7 and capacities when the same have been ascertained. Plaintiffs are informed and believe and thereon  
8 allege that each of said fictitiously named Defendants are in some manner responsible for the injuries  
9 and damages suffered by the Plaintiffs herein.

10 5. At all times herein mentioned, each of the named Defendants were the agents, servants  
11 and employees of the other named Defendants and were acting at all times within the scope and  
12 course of their agency and employment, and with the knowledge, consent and permission of their  
13 principal and employer.

14 6. At all times herein mentioned, Defendant Marilee Christine Gonzalez, Marilee  
15 Carrasco, and Ivan Carrasco were and are residents of the County of Ventura, State of California.

16 7. Plaintiffs are informed and believe and thereon allege that Defendants MGP XII  
17 Mountaingate, LLC and Does 201 through 225 (“MGP”), Merlone Geier Management, LLC, and  
18 Does 251 through 275. (“Merlone”), are legal entities (including corporations, limited liability  
19 partnerships, limited liability companies, and other lawful legal entities) duly organized and existing  
20 under and by virtue of the laws of the State of California, with their principal place of business  
21 located in the City of Los Angeles, County of Los Angeles, State of California, and licensed to,  
22 authorized to, and actively doing business pursuant to the laws of the State of California and within  
23 the City of Simi Valley, County of Ventura, State of California.

24 8. Plaintiffs are informed and believe and thereon allege that Defendants MGP was, were  
25 and are the owners, possessors, landlords, and lessors of the Premises.

26 9. Plaintiffs are informed and believe and thereon allege that Defendants Merlone  
27 was, were and are the supervisors, managers and operators of the Premises.

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1           10.     On October 14, 2018, at the invitation and solicitation of Defendants MGP, Merlone  
2 and the businesses of the Premises, including said Defendants' tenants and business proprietors,  
3 Plaintiff Megan Auzat was driving and operating a certain 2012 Toyota Camry motor vehicle, bearing  
4 California license number 6VBJ981 ("Auzat Vehicle"), along and upon the Premises and its parking  
5 lot following and adhering to the marked and controlled design, lay out, directions and traffic control  
6 devices and signals (such as stop signs), streets, lanes of travel, access, egress and roadways on and  
7 at the Premises, and with the consent and permission of the Auzat Vehicle's owner, Plaintiff David  
8 Auzat, when the collision, events and circumstances stated herein occurred.

9           11.     Plaintiffs are informed and believes and thereon alleges that Defendants Marilee  
10 Christine Gonzalez, Marilee Carrasco, Ivan Carrasco, and Docs 1 through 50, were the owners of the  
11 motor vehicle referred to in this Complaint, and described as a 2016 Toyota Prius motor vehicle, with  
12 bearing California license number 7TGX587 ("Carrasco Vehicle"), and that said Carrasco Vehicle  
13 was at all times herein mentioned being driven by Defendants Marilee Christine Gonzalez and Does  
14 26 through 75, with the consent, permission, and knowledge of the owner(s) of the Carrasco Vehicle  
15 and the other named Defendants.

16           12.     At the same time and place aforesaid, Defendants Marilee Christine Gonzalez, Marilee  
17 Carrasco, Ivan Carrasco, and Does 1 through 200, inclusive, so negligently, recklessly, wantonly,  
18 tortuously and carelessly sold, transferred, purchased, managed, maintained, repaired, serviced,  
19 inspected, modified, designed, manufactured, entrusted, loaned, rented, consigned, leased, operated  
20 and drove the Carrasco Vehicle, along and upon the parking lot and Premises, in the City of Simi  
21 Valley, County of Ventura, State of California, including but not limited to running a stop sign and  
22 failing to yield the right of way to Plaintiff, that said Carrasco Vehicle was caused to and did then  
23 collide with the Auzat Vehicle which Plaintiff was safely operating, thereby proximately causing the  
24 injuries and damages set forth herein.

25           13.     Plaintiffs are informed and believe and thereon allege that Defendants Marilee  
26 Christine Gonzalez, Marilee Carrasco, Ivan Carrasco, and Does 1 through 200, inclusive, and each  
27 of their acts and omissions, including negligence, were a direct and proximate cause of the damages  
28 and injuries in any form suffered by the Plaintiffs.

1           14.     As a direct and proximate result of the Defendants' acts, omissions and/or negligence,  
2 as aforesaid, Plaintiffs suffered injuries, the extent of which have not been determined, and Plaintiffs  
3 will pray leave of Court to amend this complaint to specify said injuries when the same have been  
4 ascertained, or upon proof.

5           15.     As a direct and proximate result of Defendants' acts, omissions and/or negligence, as  
6 aforesaid, Plaintiffs were injured in their health, strength, and activity, sustaining bodily injuries,  
7 which have caused, and will cause each of them physical pain and suffering, all to their general  
8 damage, the extent of which has not been determined and Plaintiffs will pray leave of this Court to  
9 amend this complaint to specify said damages when the same have been ascertained, or upon proof.

10          16.     As a further direct and proximate result of said acts, omissions and/or negligence of  
11 Defendants, and each of them, Plaintiffs have incurred and will continue to incur medical, hospital  
12 and related expense, the full nature, extent and amount of which is unknown to Plaintiffs at this time  
13 and Plaintiffs will amend this complaint to state the amount when the same becomes known to them,  
14 or upon proof.

15          17.     As a further direct and proximate result of said acts, omissions and/or negligence of  
16 Defendants, and each of them, Plaintiffs have incurred and will continue to incur loss of wages,  
17 income, earnings, and benefits, as well as impaired earning capacity in the future, the full nature,  
18 extent and amount of which is unknown to Plaintiffs at this time and Plaintiffs will amend this  
19 complaint to state the amount when the same becomes known to them, or on proof.

20          18.     As a further direct and proximate result of said acts, omissions and/or negligence of  
21 Defendants, and each of them, Plaintiffs have incurred and will continue to incur property damages,  
22 such as but not limited to physical damage to their motor vehicle, motor vehicle rental, as well as loss  
23 of use of said motor vehicle, the full nature, extent and amount of which is unknown to Plaintiffs at  
24 this time and Plaintiffs will amend this complaint to state the amount when the same becomes known  
25 to them, or upon proof thereof.

26                   **AS AND FOR A FIRST CAUSE OF ACTION FOR NEGLIGENCE,**  
27                   **PLAINTIFF MEGAN AUZAT ALLEGES AGAINST ALL DEFENDANTS:**

28          19.     Plaintiff repeats and repleads paragraphs 1 through 18 of this Complaint and

1 incorporates them herein by reference as though fully set forth word for word.

2           20.     At the same time and place aforesaid, Defendants Marilce Christine Gonzalez, Marilce  
3 Carrasco, Ivan Carrasco, and Does 1 through 200, inclusive, so negligently, recklessly, wantonly,  
4 tortuously and carelessly sold, transferred, purchased, managed, maintained, repaired, serviced,  
5 inspected, modified, designed, manufactured, entrusted, loaned, rented, consigned, leased, operated  
6 and drove the Carrasco Vehicle, along and upon the parking lot and Premises, in the City of Simi  
7 Valley, County of Ventura, State of California, including but not limited to running a stop sign and  
8 failing to yield the right of way to Plaintiff, that said Carrasco Vehicle was caused to and did then  
9 collide with the Auzat Vehicle which Plaintiff was safely operating, thereby proximately causing the  
10 injuries and damages set forth herein.

11           21.     Plaintiff is informed and believes and thereon alleges that Defendants Marilee  
12 Christine Gonzalez, Marilee Carrasco, Ivan Carrasco, and Does 1 through 200, inclusive  
13 (“Defendants”), and each of their acts and negligence was a direct and proximate cause of the  
14 damages and injuries in any form suffered by the Plaintiff.

15           22.     As a direct and proximate result of the Defendants' acts, omission and negligence, as  
16 aforesaid, Plaintiff suffered injuries, the extent of which have not been determined, and Plaintiff will  
17 pray leave of Court to amend this complaint to specify said injuries when the same have been  
18 ascertained, or upon proof.

19           23.     As a direct and proximate result of Defendants' acts, omissions and negligence, as  
20 aforesaid, Plaintiff was injured in her health, strength, and activity, sustaining bodily injuries, which  
21 have caused, and will cause her physical pain and suffering, all to her general damage, the extent of  
22 which has not been determined and Plaintiff will pray leave of this Court to amend this complaint to  
23 specify said damages when the same have been ascertained, or upon proof.

24           24.     As a further direct and proximate result of said acts, omissions and negligence of  
25 Defendants, and each of them, Plaintiff has incurred and will continue to incur medical, hospital and  
26 related expense, the full nature, extent and amount of which is unknown to Plaintiff at this time and  
27 Plaintiff will amend this complaint to state the amount when the same becomes known to her, or upon  
28 proof thereof.

1           25.     As a further direct and proximate result of said negligence of Defendants, and each of  
2 them, Plaintiff has incurred and will continue to incur loss of wages, income, earnings, and benefits,  
3 as well as impaired earning capacity in the future, the full nature, extent and amount of which is  
4 unknown to Plaintiff at this time and Plaintiff will amend this complaint to state the amount when the  
5 same becomes known to her, or upon proof thereof.

6           26.     As a further direct and proximate result of said negligence of Defendants, and each of  
7 them, Plaintiff has incurred and will continue to incur property damages, such as physical damage and  
8 total loss to her motor vehicle, motor vehicle rental, as well as loss of use of said motor vehicle, the  
9 full nature, extent and amount of which is unknown to Plaintiff at this time and Plaintiff will amend  
10 this complaint to state the amount when the same becomes known to her, or upon proof thereof.

11           **AS AND FOR A SECOND CAUSE OF ACTION FOR NEGLIGENCE,**  
12           **PLAINTIFF DAVID AUZAT ALLEGES AGAINST ALL DEFENDANTS:**

13           27.     Plaintiff repeats and repleads paragraphs 1 through 26 of this Complaint and  
14 incorporates them herein by reference as though fully set forth word for word.

15           28.     At the same time and place aforesaid, Defendants Marilee Christine Gonzalez, Marilee  
16 Carrasco, Ivan Carrasco, and Does 1 through 200, inclusive, so negligently, recklessly, wantonly,  
17 tortuously and carelessly sold, transferred, purchased, managed, maintained, repaired, serviced,  
18 inspected, modified, designed, manufactured, entrusted, loaned, rented, consigned, leased, operated  
19 and drove the Carrasco Vehicle, along and upon the parking lot and Premises, in the City of Simi  
20 Valley, County of Ventura, State of California, including but not limited to running a stop sign and  
21 failing to yield the right of way to Plaintiff Megan Auzat, that said Carrasco Vehicle was caused to  
22 and did then collide with the Auzat Vehicle which Plaintiff Megan Auzat was safely operating,  
23 thereby proximately causing the injuries and damages set forth herein.

24           29.     Plaintiff is informed and believes and thereon alleges that Defendants Marilee  
25 Christine Gonzalez, Marilee Carrasco, Ivan Carrasco, and Does 1 through 200, inclusive  
26 (“Defendants”), and each of their acts and negligence was a direct and proximate cause of the  
27 damages and injuries in any form suffered by the Plaintiff.

28           30.     As a direct and proximate result of the Defendants' acts, omission and negligence, as

1 aforesaid, Plaintiff suffered injuries. the extent of which have not been determined, and Plaintiff will  
2 pray leave of Court to amend this complaint to specify said injuries when the same have been  
3 ascertained, or upon proof.

4 31. As a direct and proximate result of said negligence of Defendants, and each of them,  
5 Plaintiff has incurred and will continue to incur property damages, such as but not limited to physical  
6 damage and total loss to her motor vehicle, the Auzat Vehicle, motor vehicle rental, as well as loss  
7 of use of said motor vehicle, the full nature, extent and amount of which is unknown to Plaintiff at  
8 this time and Plaintiff will amend this complaint to state the amount when the same becomes known  
9 to him, or upon proof thereof.

10 **AS AND FOR A THIRD CAUSE OF ACTION FOR NEGLIGENCE AND PREMISES**  
11 **LIABILITY, PLAINTIFFS MEGAN AUZAT AND DAVID AUZAT ALLEGE AGAINST**  
12 **ALL DEFENDANTS:**

13 32. Plaintiff repeats and repleads paragraphs 1 through 31 of this Complaint and  
14 incorporates them herein by reference as though fully set forth word for word.

15 33. At all times herein mentioned, Defendants MGP and Merlone, as persons and/or  
16 entities and as owners, shareholders, members, holders of interest, employers and the like, solicited,  
17 screened, vetted, trained, instructed, directed, supervised, managed and controlled each other and their  
18 employees, independent contractors, and other personnel in the performance of their duties and  
19 services: such that all of said entities and persons were experienced, qualified and capable of  
20 performing their duties and were the representatives, agents, servants and employees of said  
21 Defendants as well as of the other named Defendants, and in doing the things hereinafter alleged,  
22 were acting at all times within the course and scope of said agency and employment, and under and  
23 with the knowledge, direction, supervision, instruction, consent, permission, ratification and authority  
24 of said Defendants and all other Defendants.

25 34. Defendants MGP engaged, hired, retained, contracted with, and employed entities  
26 and/or persons, including Defendants Merlone, among other things (i) to market and advertise the  
27 Premises, and to attract, solicit and invite customers and patrons for commercial retail purchases and  
28 other business, as well as vehicle traffic to do so, at and on the Premises, including specifically the

1 parking lot, for financial profit and gain; (ii) to design, draw, plan, specify, direct, control, layout, map  
2 out, mark out, designate, build and construct the Premises and area, including the parking lot and its  
3 use and traffic control directions and devices and signals, for the operation and management of the  
4 Defendants' business as well as the business of their tenants and occupiers for profit, for the use,  
5 occupancy, movement, traffic, access, egress, safety, security, comfort and enjoyment of customers,  
6 patrons, occupants, invitees, and solicitees; and, (iii) to design, plan, specify, designate, layout,  
7 implement, supervise, direct, control, operate and manage the Premises, including the parking lot, the  
8 business of the Premises, and the patronage, occupancy, presence, access, egress, movement, traffic  
9 and use by and of the invitees, patrons and customers to, at and on the Premises, including the hiring  
10 and employment of entities and/or persons, for the patronage, occupancy, presence, safety, security,  
11 comfort and enjoyment, and use of and by the customers, patrons, invitees and occupants.

12       35. Further, Defendants, and each of them, owned, managed, controlled, directed,  
13 maintained, supervised and operated the Premises, including the parking lot, with full knowledge of  
14 the condition of the Premises and the presence of particular structures and possible obstructions, along  
15 with the peculiar hazards, dangers, risks and foreseeability of injury, harm, damage and losses to  
16 customers, patrons, invitees and users of the Premises and parking lot.

17       36. Defendants knew, or in the exercise of reasonable inspection and care should have  
18 known, that the location, design, plan, specifications, designations, controls, layout, map out, building  
19 and construction of the Premises, including those pertaining to the parking lot, and the transportation  
20 and traffic of persons on and using the Premises, were likely to and/or actually did create a dangerous  
21 and hazardous condition and peculiar risk of harm to invitees, customers, patrons, occupants and users  
22 of the Premises, because of, among other things, the structures and obstructions on the Premises  
23 including buildings, such that customers, patrons, invitees and users would be placed in hazardous  
24 and dangerous conditions while patronizing, accessing, using and driving at and on the Premises.

25       37. With said advance notice and knowledge, and foreseeability, Defendants  
26 designed, planned, directed, designated, specified, laid out, implemented, controlled, supervised,  
27 operated and managed the Premises, including the parking lot, and the business of and on the  
28 Premises, and the occupancy, patronage, presence, access, egress, movement, traffic and use by and

1 for third parties, such as Plaintiffs.

2 38. Further, Defendants, and each of them, owned, managed, maintained, controlled,  
3 supervised and operated the Premises, including the parking lot, with full knowledge of the peculiar  
4 risks and foreseeability of injury, harm, damage and losses to invitees, patrons, customers, occupants  
5 and users of the Premises.

6 39. With said advance notice and knowledge, and foreseeability, Defendants MGP,  
7 Merlone and Does 251 through 275, negligently, carelessly, intentionally, wilfully, and wantonly,  
8 among other things (i) solicited, screened, vetted, selected, trained, directed, engaged, hired, and  
9 employed persons and entities to design, plan, direct, designate, specify, lay out, mark, implement,  
10 control, supervise, operate and manage the Premises, including its parking lot, purportedly for the  
11 safety of its patrons, customers, invitees and users; (ii) designed, planned, directed, designated,  
12 specified, laid out, implemented, controlled, supervised, operated and managed the Premises,  
13 including the parking lot, and built and contracted the Premises, again purportedly for its patrons,  
14 customers, invitees and users; and, (iii) marketed and advertised the Premises and its patronage and  
15 use by third parties, including the Plaintiffs.

16 40. Defendants, and each of them, knew and/or should have known that the Premises,  
17 including the parking lot, were unsafe, dangerous and hazardous for use by its patrons, customers,  
18 invitees and users.

19 41. Despite said knowledge and conditions, Defendants, and each of them, allowed said  
20 conditions and use to continue all to the danger and hazard of third parties, such as Plaintiffs,  
21 proximately causing the injuries and damages set forth herein.

22 **AS AND FOR A FOURTH CAUSE OF ACTION FOR CREATION AND**  
23 **MAINTENANCE OF A NUISANCE, PLAINTIFFS MEGAN AUZAT AND DAVID AUZAT**  
24 **ALLEGE AGAINST ALL DEFENDANTS:**

25 42. Plaintiff repeats and repleads paragraphs 1 through 41 of this Complaint and  
26 incorporates them herein by reference as though fully set forth word for word.

27 43. The defective and dangerous conditions of the Premises and the parking lot as alleged  
28 herein above, including the directions for traffic and marking of traffic control devices such as lane

1 access and directions and stop signs, constituted a nuisance (including an attractive nuisance) within  
2 the meaning of Civil Code, in that they deprived Plaintiffs of the safe and comfortable use of the  
3 Premises and the parking lot.

4 44. As a direct and proximate result of the creation and maintenance of the nuisance by  
5 Defendants, Plaintiffs suffered distress, anxiety, depression, discomfort and annoyance, all to their  
6 general damage.

7 45. As a further direct and proximate result of the maintenance of the nuisance by  
8 Defendants, Plaintiffs suffered bodily injuries, property damages and economic losses, all to their  
9 further damage.

10 46. In maintaining the nuisance, Defendants acted with full knowledge of the  
11 consequences thereof and of the damage being caused to Plaintiffs. Despite this knowledge,  
12 Defendants failed to abate the nuisance by diligently correcting, curing, changing and/or repairing the  
13 defective and dangerous conditions of the Premises or causing them to be corrected, cured, changed  
14 and/or repaired. The failure of the Defendants to act was both oppressive and malicious within the  
15 meaning of Civil Code, Section 3294, in that it subjected Plaintiffs to cruel and unjust hardship in  
16 willful and conscious disregard of Plaintiffs' rights and safety, thereby entitling Plaintiffs to an award  
17 of punitive damages.

18 WHEREFORE, Plaintiffs pray judgment against Defendants, and each of them, as follows:

19 1. For general damages in an amount not presently known and Plaintiffs will amend this  
20 complaint to state same when ascertained, or upon proof;

21 2. For special damages in an amount not presently known and Plaintiffs will amend this  
22 complaint to state same when ascertained, or upon proof;

23 3. For medical and related expenses in an amount not presently known and Plaintiffs will  
24 amend this complaint to state same when ascertained, or upon proof;

25 4. For loss of wages, income, earnings and benefits in an amount not presently known  
26 and Plaintiffs will amend this complaint to state same when ascertained, or upon proof;

27 5. For property damages in an amount not presently known and Plaintiffs will amend this  
28 complaint to state same when ascertained, or upon proof;

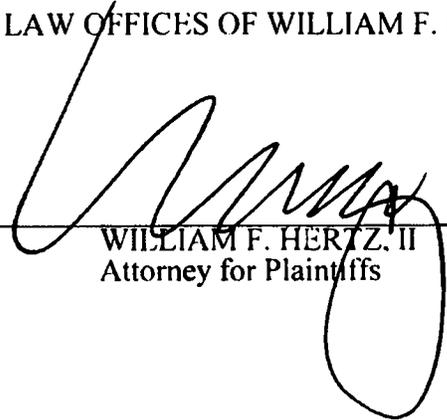
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- 6. For punitive damages;
- 7. For costs of suit herein incurred; and,
- 8. For such other and further relief as the Court may deem just and proper.

Dated: October 8, 2020

LAW OFFICES OF WILLIAM F. HERTZ, II

By: \_\_\_\_\_



WILLIAM F. HERTZ, II  
Attorney for Plaintiffs