IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CASE NO. 9:25-CV-80526-DMM

GOOD SAMARITAN MEDICAL CENTER, INC., et al.,

Plaintiffs,

v.

THE LEAPFROG GROUP,

Defendant.

THE PLAINTIFF HOSPITALS' NOTICE OF WITHDRAWAL OF REQUEST FOR MONETARY DAMAGES AND JURY DEMAND

The Plaintiff Hospitals respectfully file this Notice of Withdrawal of their Request for Monetary Damages and Jury Demand. The Plaintiff Hospitals will proceed with their requests for equitable relief, including a judicial declaration and a permanent injunction. The Plaintiff Hospitals will also continue to seek an award of attorneys' fees and costs.

The Plaintiff Hospitals filed this lawsuit on April 30, 2025, seeking both *legal* relief (monetary damages) and *equitable* relief (a declaration and injunction). ECF No. 1 ("Complaint"). Accordingly, the Plaintiff Hospitals requested a jury trial on all issues so triable. *Id.* at 52–53.

The Plaintiff Hospitals filed a motion for a preliminary injunction on May 17, 2025, ECF No. 20, but promptly withdrew the motion in the interests of judicial and party economy after the Court set an expedited schedule for trial, ECF No. 34. Per the Court's order, trial is scheduled for January 2026. ECF No. 32.

TLG filed a motion to dismiss on June 27, 2025. ECF No. 39. On July 15, 2025, the Court denied the motion. ECF No. 41. In particular, the Court rejected TLG's argument that the Plaintiff Hospitals failed to state a claim under the FDUTPA. *Id.* at 7–8.

On July 29, 2025, TLG filed its Answer. ECF No. 43. The Answer requests "a jury trial on all issues so triable." *Id.* at 62. It raises as affirmative defenses a lack of personal jurisdiction, that damages are too speculative and remote, and failure to mitigate damages. *Id.* at 60–62.

In light of the expedited trial schedule and in consideration of the interests of judicial and party economy, the Plaintiff Hospitals hereby withdraw their request for an award of legal relief (monetary damages) in their prayer for relief as well as their jury demand. *See, e.g.*, *Reviv IP LLC v. Revive Health & Wellness Stuart LLC*, 2021 WL 2312870, at *2 (S.D. Fla. June 7, 2021) (granting the plaintiffs' motion to withdraw jury demand and forgo pursuing actual damages because Rule 39(a) permits plaintiffs to "withdraw their jury demand after the amendment deadline has passed"). Proceeding with a bench trial in this matter will obviate the need for the extensive discovery TLG seeks on actual monetary damages and moot several of TLG's asserted affirmative defenses premised on those damages. Moreover, a jury will no longer need to be empaneled and the parties will not need to draft, nor would the Court need to consider, detailed jury instructions or a verdict form.[1]

Because the Plaintiff Hospitals will proceed with only their requests for equitable relief, neither the Plaintiff Hospitals nor TLG have a right to a jury trial in this matter. *See Hard Candy, LLC v. Anastasia Beverly Hills, Inc.*, 921 F.3d 1343, 1352–60 (11th Cir. 2019) (citing *Tull v. United States*, 481 U.S. 412, 417 (1987)).[2]

On August 6, 2025, the Plaintiff Hospitals' counsel contacted TLG's counsel to confer regarding whether TLG would agree to withdraw its jury demand, stipulate to a bench trial, and withdraw its affirmative defenses premised on the Plaintiff Hospitals' monetary damages request. TLG has to this point declined to so stipulate, but the parties continue to confer. To the extent TLG declines to stipulate, the Plaintiff Hospitals will promptly move to strike TLG's jury demand in its Answer.

[1] To be clear, the Plaintiff Hospitals are specifically waiving their request for the legal remedy of monetary damages—not any underlying theory that TLG's deceptive grading scheme has inflicted and will continue to inflict harm upon the Plaintiff Hospitals. The Plaintiff Hospitals thus reserve all rights to pursue injunctive and declaratory relief to avert continuing harms from TLG's deceptive grading scheme, along with attorneys' fees and costs.

[2] Similarly, "there is no constitutional right to have a jury decide whether or not to award attorneys' fees." *Columbus Mills, Inc. v. Freeland*, 918 F.2d 1575, 1578 (11th Cir. 1990).

Dated: August 12, 2025

Respectfully submitted,

By: */s Jeffrey E. Marcus*

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