UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 25-CV-80526-MIDDLEBROOKS

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

Plaintiffs,

v.

THE LEAPFROG GROUP,

Defendant.
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ORDER ON DEFENDANT'S MOTION IN LIMINE

THIS CAUSE comes before the Court upon Defendant, The Leapfrog Group's Omnibus Motion in Limine, filed on November 12, 2025. (DE 98). Plaintiffs filed their Response on November 26, 2025. (DE 118). Defendant filed their Reply on December 3, 2025. (DE 123). For the following reasons, the Motion is denied.

Given the Parties' familiarity with the facts, I need not provide a comprehensive background here. Defendant's Motion challenges eight categories of evidence proffered by the Plaintiffs. Defendants specifically seek to exclude the following evidence: 1) a Tik Tok video, challenged on the basis of authenticity, relevance, hearsay, and prejudice to the Defendant; 2) any witness testimony indicating that patients brought the Leapfrog grade to the attention of any doctor or nurse, or that any specific patient was harmed by the Leapfrog Safety Group, challenged under Federal Rule of Civil Procedure 26(a), lack of personal knowledge, a dearth of underlying facts, and speculative nature of the testimony; 3) testimony or documentary evidence that shows declining hospital admissions, loss of market share or decreased revenue, challenged on the basis that relevant evidence was not disclosed during discovery; 4) testimony that Defendant *caused*

Plaintiff's alleged declining admissions, loss of market share or decreased revenue, challenged on the basis that relevant evidence was not disclosed during discovery; 5) testimony that Plaintiffs were performing above the "Limited Achievement" score that Defendant imputed, challenged on the basis that such evidence is speculative; 6) publications and complaints that are critical of Defendant's methodologies, challenged because Defendant claims that those complaints pertain to methodologies in effect prior to the Fall 2024 change, and due to prejudice; 7) whether Leapfrog takes money in exchange for better grades or any reference to Defendant being a "pay-to-play" scheme, challenged for failure to disclose relevant evidence; and 8) Defendant's paid-for consulting services in exchange for giving hospitals better grades, challenged for failure to disclose relevant evidence.

Defendant's evidentiary challenges and its desire for advance rulings concerning various categories of evidence are more apt in the context of a jury trial. However, given that the Parties have stipulated to a bench trial, the concerns animated by these objections are diminished. I am fully capable of distinguishing competent from incompetent evidence at trial and assigning each item the weight it deserves when adjudicating the Parties' claims.

Moreover, determinations of what is relevant, and how a particular piece of evidence is going to be utilized is highly contextual. It requires me to understand exactly what information is conveyed in a particular document or precisely what a witness intends to say during oral testimony.

As it relates to Defendant's Rule 26 and 37 challenges, such claims fall short. Defendant first contends that "Plaintiffs have never disclosed any documents to support that any specific patient of the Plaintiff Hospitals was harmed by the Leapfrog Safety Grades assigned to any of the Plaintiffs Hospitals, and as such, any such evidence or witness testimony regarding the same must be barred." (DE 98 at 7). The record clearly shows otherwise. Specifically, the Plaintiffs timely provided evidence of consumer harm through the testimony of CEOs affiliated with the Plaintiff hospitals.[1] Second, Defendant argues that Plaintiffs have never disclosed any documents to support their alleged damages, reputational harm or "aggrievedness", and as such, any such evidence or witness testimony regarding the same must be barred. As it relates to damages evidence, I agree with the Plaintiffs that damages evidence was not required because they need not establish actual, quantified damages to prevail on their FDUTPA claim for declaratory and injunctive relief. Reputational evidence that would go towards whether the Plaintiffs were aggrieved for purposes of equitable relief, on the other hand, would need to have been disclosed. Such testimony, like consumer harm, was disclosed through the testimony of several CEOs and expert witnesses. The issues confronting these pieces of evidence involve hearsay and sufficiency of the evidence, both of which will become clearer upon trial.

Leapfrog's final two requests seek to exclude testimony "that Leapfrog in any way takes money in exchange for better grades" and that it "provides paid consulting services in exchange for giving hospitals better grades," on the ground that "no documentary evidence (or testimony)" supports these statements. (DE 98 at 14, 15). These complaints, like those concerning failure to disclose, involve mischaracterizations of the Plaintiffs' evidence. Defendant seems to suggest that Plaintiffs have never disclosed any documents to support their arguments, and, therefore, any such evidence or witness testimony regarding the same must be barred. Upon review of the record, however, Plaintiffs clearly have some form of testimonial and expert evidence in the record they intend to use to corroborate their claims. In my view, Defendant's "failure to disclose" arguments

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[1] Whether such evidence is admissible as non-hearsay or fits within a hearsay exception is an issue that is best left to be determined within the context of trial.

are really "sufficiency of the evidence" arguments and therefore do not warrant exclusion in advance of trial.

I will deny Defendant's motion at this time, so that I can evaluate how the evidentiary presentation is evolving as trial proceeds. This denial is without prejudice to the Defendant's ability to make contemporaneous objections at the time of trial to particular items of evidence or areas of testimony that they believe to be inadmissible. To be sure, this Order does not diminish all of the challenges advanced by Defendant, particularly its hearsay concerns with respect to consumer harm. It only makes clear that the determination of such issues will benefit from the added perspective of trial. Accordingly, it is **ORDERED AND ADJUDGED** that the Defendant's Motion in Limine (DE 98) is **DENIED**.

SIGNED in Chambers at West Palm Beach, Florida, this 13 day of January, 2026.

DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc.

Counsel of Record