

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 COMMUNITY HOSPITALS' REPLY IN SUPPORT OF
MOTION TO SEAL TRIAL EXHIBITS CONTAINING PATIENT INFORMATION**

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The Community Hospitals' motion to seal (ECF 142 ("Mot.")) concerns two trial exhibits containing identifying information of private-citizen, non-party medical patients: PX-552.0, which memorializes the decision of a patient admitted to West Boca Medical Center to leave the hospital "against medical advice," "due to the leap frog reviews" his daughters had "read online," ECF 142-1; and PX-560.0–560.2, which note that a "patient declined procedure" at Palm Beach Gardens Medical Center "due to the hospital[']s F grade for infections," ECF 142-4 at 3. Leapfrog's opposition brief (ECF 158 ("Opp.")) provides no sound reason to deny sealing. The Community Hospitals' motion to seal should be granted in full.

1. Leapfrog does not dispute the sole argument in support of the Community Hospitals' motion: that the two trial exhibits at issue, if admitted into evidence, should be sealed and filed on the public docket only in redacted form. Mot. 2–3. Sealing is warranted because the strong interests in maintaining confidentiality regarding the sensitive, HIPAA-protected information in the exhibits outweigh the public's general right of access to judicial records. *Id.* Leapfrog agrees that maintaining "confidentiality over the redacted information" is appropriate. Opp. 1–2. Leapfrog thus accepts that the trial exhibits at issue here (PX-552.0 and PX-560.0–560.2), if admitted into the record, should be redacted on the public docket.

2. Leapfrog instead devotes its opposition brief to a different subject: backdoor objections to the admissibility of PX-552.0.¹ Leapfrog's principal objection is that the redacted patient information in PX-552.0 should be excluded under Federal Rule of Civil Procedure 37(c)(1) because the Community Hospitals did not disclose that information to Leapfrog "during discovery." Opp. 3. But evidence is subject to sanction under Rule 37(c)(1) only if its disclosure was "required by Rule 26(a) or (e)." Fed. R. Civ. P. 37(c)(1). And there is no Rule 26 violation here because the documents at issue contain appropriate redactions of sensitive third-party information protected by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 42 U.S.C. § 1320d-6 *et seq.*, and this Court's own protective order, and Leapfrog itself never objected to the redactions. The Community Hospitals' sealing motion is simply a prompt and appropriate response

¹ As Leapfrog explains in its opposition (at 5), it raised admissibility objections to PX-560.0–560.2 in a separately filed motion *in limine* pending before the Court. ECF 144. The Community Hospitals have responded to that motion, ECF 162, and therefore this reply brief addresses only Leapfrog's admissibility objections to PX-552.0.

to the Court’s summary-judgment order noting that certain testimony from the Community Hospitals’ CEOs had not “identif[ied] ... patients by name.” ECF 139 at 4. At bottom, what Leapfrog complains about is the natural consequence of sealing the document—making the sensitive patient information that was previously and properly redacted known to the Court and Leapfrog under seal. But that does not change the fact that the document itself was timely disclosed under Rule 26 and that the redactions were appropriate and consistent with HIPAA and the Court’s protective order.

a. HIPAA reflects a “strong federal policy in favor of protecting the privacy of patient medical records,” including names and other personally identifying information. *Law v. Zucker-*
man, 307 F. Supp. 2d 705, 711 (D. Md. 2004); *see, e.g.*, 45 C.F.R. § 164.514(b)(2)(i). Even “pa-
tient status”—for example, whether an individual is a patient of a particular medical provider—is
protected health information under HIPAA. *In re Meta Pixel Healthcare Litig.*, 647 F. Supp. 3d
778, 792–93 (N.D. Cal. 2022). As essential and trusted providers of healthcare for their commu-
nities, the Community Hospitals take seriously their obligations under HIPAA. Indeed, *both* the
Community Hospitals and Leapfrog recognized from the outset of this case the importance of
honoring HIPAA protections here. Anticipating that confidential patient information may appear
in the crosshairs of documents exchanged between the parties, the Community Hospitals and Leap-
frog entered into—and this Court approved—a protective order specifying that the parties “may
redact” all “patient health information required to be confidential under any local, state, or federal
law,” including HIPAA. ECF 42 ¶ 2.3, *see also* ECF 44 (ordering the protective order’s terms).

Numerous documents produced in discovery were appropriately redacted in accordance
with HIPAA’s mandates and the protective order’s terms, including PX-552.0. That document was
produced to Leapfrog as part of fact discovery on September 12, 2025, with the relevant patient’s
personally identifying information redacted. Because these redactions were in compliance with
HIPAA and this Court’s protective order, they did not violate Rule 26. *See, e.g.*, Fed. R. Civ. P.
26(b)(1) (“the scope of discovery” includes only “nonprivileged matter[s]”); *Raffa v. Wachovia*
Corp., 242 F. Supp. 2d 1223, 1225 (M.D. Fla. 2002) (applying a discovery privilege resting on a
federal regulation); *Looney v. Moore*, 18 F. Supp. 3d 1338, 1339 (N.D. Ala. 2014) (interpreting
broadly a hospital confidentiality privilege resting on a state statute); Fed. R. Civ. P. 26(c) (author-
izing courts to enter “protective order[s]” that govern the scope of discovery); *Spears v. Wal-Mart*
Stores E., LP, 2021 WL 472927, at *4 (S.D. Ga. Feb. 9, 2021) (documents that “fall within this

Court’s Protective Order ... are subject to protection under Rule 26”); *cf. Chamblin v. Auburn Univ.*, 2021 WL 6884911, at *1 (M.D. Ala. Aug. 19, 2021) (party is subject to “sanctions under Rule 37” for “fail[ure] to comply with Rule 26 or a discovery order” (emphasis added)).

Leapfrog dismisses “HIPAA restrictions” as irrelevant here (and ignores the protective order altogether), Opp. 3–4, but they are central to why the Community Hospitals consistently redacted patient information in the documents exchanged in discovery. HIPAA outlines the steps a covered entity—like the Community Hospitals here—must take before disclosing confidential patient information. A covered entity may seek authorization from the patient to use or disclose his or her protected health information in a specified manner. *See* 45 C.F.R. § 164.508 (setting out the six mandatory core elements of valid patient authorizations). Alternatively, a covered entity may seek a court order authorizing disclosure of “only the protected health information expressly authorized by such order.” *Id.* § 164.512(e)(1)(i). Even where the conditions of 45 C.F.R. § 164.508 may be met (and Leapfrog does not make any argument on this point) or a court order may be theoretically obtainable, prudential factors weigh heavily against seeking disclosure of patient information. Disclosure of patient information by medical providers—even if legally valid—necessarily erodes patient trust and goodwill. Leapfrog’s broad attempt to cast the Community Hospitals’ adherence to HIPAA and this Court’s protective order as an underhanded “strategic choice,” Opp. 1, thus falls flat.

b. Leapfrog also never objected to the Community Hospitals’ redactions pursuant to HIPAA, which confirms that the redactions were appropriate and did not violate any Rule 26 discovery obligations. Leapfrog, like the Community Hospitals, respected the “strong federal policy in favor of protecting the privacy of patient medical records.” *Law*, 307 F. Supp. 2d at 711.

Although Leapfrog repeatedly asserts that the Community Hospitals “never named a patient or physician” in their Interrogatory responses, Opp. 2, it fails to acknowledge that each of the Community Hospitals asserted their HIPAA objections in response to the interrogatories Leapfrog cites. In response to Interrogatory 8, for example, the Community Hospitals explained that they “also object to this Interrogatory to the extent it seeks protected health information that [HIPAA], among other statutes and regulations, bars [the Community Hospitals] from disclosing.” Ex. 3A at 11; Ex. 3B at 11; Ex. 3C at 11; Ex. 3D at 11; Ex. 3E at 11. Moreover, the Community Hospitals continuously maintained their HIPAA-based objections through their amended responses. *See, e.g.,* Ex. 4A at 12; Ex. 4B at 12; Ex. 4C at 12; Ex. 4D at 12; Ex. 4E at 12. As they explained,

HIPAA “bars” the Community Hospitals from identifying protected health information, *e.g.*, Ex. 3A at 11—a restriction they made clear to Leapfrog (and to which Leapfrog agreed) from the start, ECF 42; ECF 44. Leapfrog did not object to the HIPAA concerns identified, including through requesting that the Community Hospitals seek a patient waiver of confidentiality.

c. The Community Hospitals have also acted diligently and in compliance with their obligations post-discovery. The Community Hospitals informed Leapfrog on January 6, 2026—the day before the Court’s summary-judgment order was entered on the docket—that it was supplementing its trial exhibit list with PX-552.0. That disclosure was made “in a timely manner” because it occurred promptly after the Community Hospitals identified PX-552.0 as additional evidence of the ongoing consumer harm that is being caused by Leapfrog’s deceptive and unfair Safety Grade scheme. Fed. R. Civ. P. 26(e)(1). Indeed, periodic supplementation of trial exhibit (and witness) lists is standard practice in civil litigation, especially in a case such as this where the challenged conduct is ongoing.

The Community Hospitals also timely informed Leapfrog of their intention to move to seal PX-552.0, so that the redacted patient identifying information in that trial exhibit would be visible to both the Court and Leapfrog. This decision to seek a discrete, limited disclosure of HIPAA-protected information is intended to be responsive to the Court’s guidance in its summary-judgment order. And that step is “timely” (Fed. R. Civ. P. 26(e)(1)) because the Community Hospitals filed their motion to seal on January 9, 2026 (ECF 142), two days after issuance of the Court’s summary-judgment order (ECF 139). The Community Hospitals took that step in tandem with proffering Dr. Anthony Hernandez—the physician who provided medical advice to the patient identified in PX-552.0 before that patient departed West Boca—as a trial witness. *See* ECF 162 at 4–5. These steps are aimed to ensure a fulsome and orderly presentation of evidence at trial, in light of the guidance the Court has provided.

3. Leapfrog also is, at bare minimum, not prejudiced by admission of the redacted patient information in PX-552.0, which is simply additive to the Community Hospitals’ case. *See* Fed. R. Civ. P. 37(c)(1) (exclusion of evidence not permitted if alleged Rule 26 violation “is harmless”). Leapfrog was fully aware that PX-552.0 redacted patient information, yet it never sought that information in the four months it had that document. *See supra* at 2–3. In any event, Leapfrog has no valid interest in conducting “investigation[s]” into private-citizen healthcare patients who are not parties in this case. *Contra* Opp. 4. HIPAA’s protections exist precisely to prevent individuals

or entities other than medical providers from contacting patients and asking them intrusive questions in connection with their medical care. In addition, Dr. Hernandez will testify to the episode described in PX-552.0, *see* ECF 162 at 5 (describing proffered testimony), and Leapfrog will have an opportunity to cross-examine Dr. Hernandez as appropriate.

CONCLUSION

The Court should grant the Community Hospitals' motion and enter an order sealing the redacted portions of the identified trial exhibits containing patient information.

Dated: January 16, 2026

Respectfully submitted,

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By: /s/ Mary Beth Maloney

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EXHIBIT 3A

IN THE UNITED STATES DISTRICT COURT
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CASE NO. 9:25-CV-80526-DMM

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

Plaintiffs,

v.

THE LEAPFROG GROUP,

Defendant.

**PLAINTIFF GOOD SAMARITAN MEDICAL CENTER, INC.’S
RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP’S FIRST SET OF
INTERROGATORIES TO GOOD SAMARITAN MEDICAL CENTER, INC.**

Pursuant to Federal Rules of Civil Procedure 26 and 33 and the *Pretrial Scheduling Order and Order Referring Case to Mediation* (ECF No. 36) (the “Pretrial Scheduling Order”), Plaintiff Good Samaritan Medical Center, Inc. (“Plaintiff”), by and through its undersigned counsel, hereby submits its responses and objections (“Responses”), to Defendant The Leapfrog Group’s (“TLG”) First Set of Interrogatories, dated July 11, 2025 (the “Interrogatories” and each numbered interrogatory, an “Interrogatory”) in the above-captioned action (the “Action”).

Plaintiff’s Responses to the Interrogatories are made solely for purposes of this Action and to the best of Plaintiff’s present knowledge, information, and belief regarding the matters about which inquiry have been made. Discovery is ongoing, and Plaintiff reserves the right to amend, supplement, clarify, or further explain its Responses at any time prior to the trial in

this Action. Plaintiff further reserves the right to raise any additional objections deemed necessary or appropriate in light of any further review.

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. Plaintiff objects to the definition of terms “Plaintiffs” and “Plaintiff Hospitals” as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it seeks to require Plaintiffs to respond on behalf of entities or individuals other than themselves.

2. Plaintiff objects to the definition of the terms “Good Samaritan,” “GSMC,” “Plaintiff,” “You,” and “Your” to the extent each term seeks to require Plaintiff to respond on behalf of entities or individuals other than themselves, including on behalf of agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

3. Plaintiff objects to the definition of the terms “Tenet Healthcare” and “Tenet” to the extent it seeks to require Plaintiff to respond on behalf of entities or individuals other than itself, including on behalf of Tenet, Tenet’s agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

4. Plaintiffs object to the definition of “identify, when referring to a person,” as overbroad and unduly burdensome to the extent it calls for the “address” and “present or last-known employer” of identified individuals. Such information is overbroad and beyond the scope of permissible discovery.

5. Plaintiff objects to the instruction that the relevant time period for the Interrogatories begins on January 1, 2020. Plaintiff will apply to each Interrogatory the time period

of November 1, 2023 to present (the “Relevant Time Period”). Any response to an Interrogatory that provides information that falls outside of the Relevant Time Period should not be construed as an admission that the Relevant Time Period begins prior to January 1, 2023.

SPECIFIC RESPONSES TO INTERROGATORIES

Interrogatory No. 1: State the full name, address, job title or position, and hospital or employer affiliation of all individuals that assisted with responding to these interrogatories.

Answer: The following individuals assisted with responding to these Interrogatories.

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Sheri Montgomery	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Chief Executive Officer	Good Samaritan Medical Center
Regina West	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Market Quality Director	Palm Beach Health Network and St. Mary's Medical Center

Interrogatory No. 2: Identify every individual not identified in Your Rule 26(a) initial disclosures with knowledge of facts pertaining to the allegations in Your Complaint in this Lawsuit (and any subsequent amendments) and/or whom You believe may have discoverable knowledge, information or data regarding this matter, including those who You expect to call as a fact or opinion witness at any hearing in this proceeding or whose testimony (by affidavit, deposition or testimony) You intended to submit in connection with this proceeding, and the substance of his/her testimony or affidavit, and, with respect to each person identified, provide:

- A. full name,
- B. address,
- C. telephone number,
- D. job title or position,
- E. hospital or employer affiliation,
- F. and describe in detail the facts possessed by each such person.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of “every individual...with

knowledge” or who “may have discoverable knowledge, information or data regarding this matter.” Plaintiff will not provide more than the identity of individuals most likely to have knowledge regarding this matter. Plaintiff further objects to this Interrogatory as premature because it requests disclosure of Plaintiff’s witnesses for hearings and the substance of witness testimony before such disclosure is required under applicable law or the Pretrial Scheduling Order. Plaintiff will submit its trial witness list on October 2, 2025, per the Pretrial Scheduling Order, and disclose any other witnesses and witness testimony as further ordered by the Court or otherwise required by applicable law. Plaintiff also objects to this Interrogatory’s request for the identity of “opinion witness[es]” as vague, since witnesses are either “fact” or “expert” witnesses. Plaintiff will interpret “opinion witness” to mean “expert witness.” Plaintiff objects to this Interrogatory as premature to the extent it seeks disclosure of Plaintiff’s expert witness(es). Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Subject to the foregoing objection, Plaintiff will amend its Rule 26(a)(1) Initial Disclosures to identify additional individuals who may have knowledge of facts pertaining to the allegations in the Complaint.

Interrogatory No. 3: Describe in detail all factual bases for Your contention that Leapfrog’s published Safety Grade for Your hospital was false, inaccurate, misleading, deceptive, or unfair. In so answering, identify with particularity each measure, data point, or metric that You contend was inaccurately reported, calculated, or misrepresented by Leapfrog in calculating the Safety Grade for Your hospital.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all factual bases” for Plaintiff’s contention. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure:

Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory as premature to the extent it requests that Plaintiff “[d]escribe in detail all factual bases” to support its contention. *In re Reliance Fin. & Inv. Grp., Inc.*, 2006 WL 8435541, at *4 (S.D. Fla. Feb. 14, 2006) (Contention interrogatories “are more appropriately used after a substantial amount of discovery has been conducted--typically, at the end of the discovery period.”). Plaintiff also objects to this Interrogatory to the extent it attempts to limit or mischaracterize Plaintiff’s claim as just challenging the false, inaccurate, misleading, deceptive, or unfair nature of TLG’s Safety Grade. As the Court explained in its order denying TLG’s motion to dismiss, the core of the Complaint is “a challenge to Defendant’s representations about its methodology, which they claim mislead consumers by failing to distinguish between absent data and damning data, and professing that grades are not influenced by a hospital’s lack of survey participation.” *Order on Motion to Dismiss* 6 (ECF No. 41). Plaintiff also challenges the provably false facts and deceptive scoring system underlying these grades, which TLG admits it relies on to arrive at its deceptive Safety Grades.

Subject to the foregoing objections and as more fully stated in the *Complaint and Demand for Jury Trial* (ECF No. 1) (“Complaint”), TLG has engaged in deceptive and unfair business practices and misrepresentations when issuing the Safety Grade for Plaintiff’s hospital as part of TLG’s annual “Hospital Survey.” TLG posts these Safety Grades online at hospitalsafetygrade.org.

To arrive at these Safety Grades, TLG uses CMS data, survey responses from participating hospitals, and other supplemental data sources. For participating hospitals, TLG uses the hospitals’ self-reported responses to the Hospital Survey for 12 of the 22 measures. For non-participating hospitals, TLG uses other sources for those 12 measures. For the remaining four measures—Computerized Physician Order Entry, Bar Code Medication Administration, ICU Physician Staffing, and Hand Hygiene Score (the “Deceptive Score Categories”)—TLG devised and uses a

so-called “imputation model.” Prior to Fall 2024, TLG’s imputation model assigned non-participating hospitals a score based on the average score applicable to a similarly situated hospital. Beginning in Fall 2024, TLG modified its imputation model. TLG now assigns the lowest possible score to non-participating hospitals, which has the effect of punishing non-participating hospitals and artificially deflating their Safety Grades. TLG has even admitted the changes in Fall 2024 were designed to penalize non-participating hospitals. TLG also misleads consumers about how it grades hospitals, stating “[t]he Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the [TLG] Hospital Survey.” *Declaration of Lee Crain* (ECF No. 21) (“Crain Decl.”), Ex. 1 at 4 (“Frequently Asked Questions About the Leapfrog Hospital Safety Grade”).

As TLG explains, “not all hospitals have enough data publicly available to be eligible for a grade.” Crain Decl. Ex. 1 at 5. “As per the National Expert Panel guidance, [TLG] has requirements for the minimum amount of data [it] need[s] to issue an accurate grade.” Crain Decl. Ex. 1 at 5. According to TLG, “[h]ospitals missing more than six process measures” are “not graded.” Crain Decl. Ex. 2 at 6. Non-participating hospitals should fall easily into that “not graded” bucket, because their decision not to participate in TLG’s survey necessarily means TLG is missing seven process measures that rely on voluntary submission of hospital data.¹

TLG then deceptively conceals how it makes up grades for the four “imputation” measures and even suggests on its website that TLG *does* have data sufficient to score TLG on those four measures. By way of example, TLG acknowledges that Plaintiff “Declined to Report” information in response to questions about “Staff work[ing] together,” but then tells consumers—as if it were

¹ Those seven include CPOE, BCMA, IPS, Safe Practice 1: Culture of Leadership Structures and Systems; Safe Practice 2: Culture Measurement, Feedback & Intervention; Total Nursing Care Hours per Patient Day; and Hand Hygiene.

a fact—that Plaintiff is “Worse Than Average” on “Handwashing,” “Communication,” “medication administration,” and the like—even though TLG has no basis whatsoever to adopt those conclusions. Crain Decl. Ex. 33 at 2. TLG itself says handwashing is among the “most important” measures in its survey, Crain Decl. Ex. 15 at 4, yet it deceptively conceals that it has no data with which to grade the Plaintiff hospital on that measure. *Defendant The Leapfrog Group’s Responses to Plaintiffs’ Requests for Production* at 7 (“Leapfrog is not itself in possession of data showing Plaintiffs’ performance on the ‘imputed metrics’ considered by the methodology.”). Of course, Plaintiff in fact has a comprehensive and thorough handwashing policy. And had Plaintiff merely filled out TLG’s survey, it would have received a full letter grade higher on TLG’s score. *Declaration of Sean Nicholson* (ECF No. 22) (“Nicholson Decl.”), Ex. 3.

Based on the foregoing, and as more fully set forth in the Complaint, TLG engages in deceptive trade practices by, among other things, deceiving consumers about its grading methods by implying that Plaintiff has failed on certain measures that, in truth, TLG has no data or other basis to evaluate; deceiving consumers by telling them the Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the Hospital Survey; deceiving consumers when it represents that it does not grade hospitals if it lacks sufficient data, when, in truth, it does grade hospitals by “imputing” or making up a grade for the Deceptive Score Categories; hiding the truth about its “imputation model” from consumers by burying it in fine print on a separate website; punishing non-participating hospitals by “imputing” scores, which artificially deflate a hospital’s Safety Grade; and favoring participating hospitals. Additional factual bases for the Plaintiff’s claims are presented in the Complaint.

Interrogatory No. 4: Describe the scoring or grading methodology You believe Leapfrog should have used to assess Your hospital's patient safety performance and explain why that method would yield a different result.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's provision of an alternative scoring or grading methodology has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it calls for speculation. Plaintiff also objects to this Interrogatory as premature to the extent it seeks information that may be the subject of expert testimony. Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 5: State whether You submitted any data, corrections, or appeals to Leapfrog regarding the Safety Grade Your hospital received, and for each such submission, identify the date of the submission, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the submission, and the content of the submission.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Whether or not Plaintiff submitted "any data, corrections, or appeals to Leapfrog regarding the Safety Grade" Plaintiff hospital received has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Subject to the foregoing objections, correspondence was sent on Plaintiff's behalf prior to the commencement of this case demanding that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, but at every turn TLG refused.

Interrogatory No. 6: State whether You provided any comment or input in any form during Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade methodology that was proposed for the calculation of Hospital Safety Grades (including but not limited to for the Fall 2024 methodology update). If yes, please identify the date of the comment, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the comment and the content of the comment. If no, please state the reason why You chose not to comment.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Whether or not Plaintiff submitted "any comment or input" in response to TLG's request for public comments has nothing to do the with claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Subject to the foregoing objections, Plaintiff did not provide comments in response to Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade scoring system because Plaintiff generally does not respond to requests for public comment from private entities like TLG.

Interrogatory No. 7: Describe all actions Your hospital took in response to (or in deciding not to respond to) its Safety Grade or the Hospital Survey, including internal meetings, media statements, or public relations efforts. In so answering, state the date of the action, the individuals involved in the action and the content of the action.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all actions” Plaintiffs may have taken in response to TLG’s Safety Grades. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, No. 14-81476-CIV, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure: Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Subject to the foregoing objections, Plaintiff devoted substantial time and resources that could have otherwise been spent continuing to improve patient care to respond to the significant harm and disruption caused by TLG’s deceptive and unfair Safety Grade. Plaintiff’s response included meeting internally with Plaintiff’s leadership team, medical executive committee, and governing board, corresponding with TLG to demand that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, and devoting substantial time and resources to facilitate the preparation and prosecution of this Action.

Interrogatory No. 8: Identify any and all persons, whether internal or external (e.g., patients, vendors, affiliates, parents, agents, partners, media) with whom You communicated in any way with respect to the Safety Grade or the Hospital Survey. In so answering, state the date of the communication, the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.) and the content of the communication.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of “any and all persons, whether internal or external.” Plaintiff will disclose the categories of individuals with whom Plaintiff communicated about the Safety Grade or Hospital Survey during the Relevant Time

Period. Plaintiff also object to this Interrogatory to the extent it seeks protected health information that Health Insurance Portability and Accountability Act (“HIPAA”), among other statutes and regulations, bars Plaintiff from disclosing. Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Subject to the foregoing objections, Plaintiff communicated with the following categories of people regarding the Safety Grade or the Hospital Survey: Plaintiff’s governing board, its medical executive committee, department directors, and physicians and nurses when asked about the Safety Grade or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grade for Plaintiff’s hospital. Most of these communications occurred during regularly scheduled meetings, during which attendees were told about TLG’s release of the deceptive and unfair Safety Grade, that Plaintiff does not participate in the Hospital Survey because it is unreliable and not an accurate reflection of hospital quality and safety or patient outcomes, and that the Safety Grade, which was not based on any information provided by Plaintiff, was misleading. The Palm Beach Health Network also issued a press release and since then, has engaged in marketing efforts to counteract TLG’s deceptive scores on behalf of Plaintiff.

Interrogatory No. 9: Describe all instances in which a third party declined to contract with, refer patients to, or work with Your hospital, where Leapfrog’s grade was cited or discussed. In so identifying list the name of the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.), the date of the communication and the content of the communication.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it requires Plaintiff to “[d]escribe all instances” in which a third party took an action in response to TLG’s deceptive grade.

Subject to the foregoing objection, Plaintiff is not aware of any responsive instances.

Interrogatory No. 10: Describe with specificity the basis for each and every category of damage You claim You incurred as a result of the Leapfrog Safety Grade. In so identifying, list each category of damages and the dollar value of each category of damage You claim.

Answer: Plaintiff objects to this Interrogatory as premature to the extent it seeks information that may be the subject of expert testimony. Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Interrogatory No. 11: Identify all adverse patient events which occurred at Your hospital, including any citations received from regulatory agencies, accrediting agencies, and third party payors such as The Joint Commission, CMS, state health departments, etc. during the period covered by each Leapfrog Safety Grade publication of which You complain (i.e., Fall 2024, Fall 2025, etc.), as well as any complaints received from patients regarding the same.

Answer: Plaintiff objects to this Interrogatory because it is overly broad, unduly burdensome, seeks discovery of information that is irrelevant to the claims and defenses in this Action, seeks information that is beyond the scope of Leapfrog’s Hospital Survey, and is not reasonably calculated to lead to the discovery of admissible evidence. TLG does not include “all adverse patient events,” “citations received from” agencies or payors, or “complaints received from patients” in TLG’s determination of its Hospital Safety Grades or request such information in the Hospital Survey, so any such information is irrelevant to whether TLG’s actions constitute unfair or deceptive trade practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff also objects to this Interrogatory to the extent it seeks protected health

information that HIPAA, among other statutes and regulations, bars Plaintiff from disclosing. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 12: Describe in detail how Your hospital compares nationally on on [sic] any other ranking of patient safety performance, including but not limited to Vizient, Inc., Premier, Inc., HealthTrust Purchasing Group, The Joint Commission, HealthGrades, US News, Newsweek, Statista, Definitive Healthcare, or any other quality benchmarking entity including benchmarking on patient safety including on adverse events and on healthcare-acquired infections.

Answer: Plaintiff objects to this Interrogatory's request that Plaintiff "[d]escribe in detail how Your hospital compares nationally" based on undisclosed "benchmarking" as vague and confusing. To the extent this Interrogatory seeks the top-line rankings of the identified organizations, Plaintiff objects to this Interrogatory because such information is publicly and equally available to TLG. To the extent this Interrogatory asks Plaintiff to compare itself to the named and unnamed entities, that request is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Other organizations' rankings have nothing to do with the claims and defenses in this case related to the Deceptive Score Categories or TLG's decision to use deceptive business practices.

Subject to the foregoing objections, Plaintiff has received numerous awards and accolades, including many that are directly relevant to patient care for the community Plaintiff serves. As a full-service cancer hospital, it is important to Plaintiff that it is accredited by the Commission on Cancer (CoC). In order to be accredited, Plaintiff had to undergo an on-site visit on a triennial basis, in which a trained CoC reviewer visited Plaintiff and reviewed its required cancer program activity documentation to ensure compliance with the standards.

The American College of Surgeons has designated Plaintiff a National Accreditation Program for Breast Centers for 13 years in a row. The American College of Radiology designated Plaintiff a Breast Imaging Center of Excellence, which it received only after accomplishing the highest level of care in breast imaging, including being committed to patients, providers, and payers. Plaintiff has been accredited as a Comprehensive Center by the Metabolic and Bariatric Surgery Accreditation and Quality Improvement Program, a joint Quality Program of the American College of Surgeons and the American Society for Metabolic and Bariatric Surgery.

Plaintiff is accredited by the Joint Commission, the nation's largest hospital accreditor that evaluates hospitals' quality performance standards through an objective evaluation process. Plaintiff has also been accredited by Joint Commission for specialization certifications for Gold Seal of Approval for Total Hip and Knee Replacement, Shoulder Replacement and Spine Surgery—certification designed for hospitals providing the critical elements to achieve long-term success in improving critical medical outcomes—which signifies Plaintiff's services have delivered evidence-based proof of clinical quality sought by patients and payers alike. The entities that award and assign these accreditations and certifications visit the healthcare facility and perform regular periodic in-person reviews, audits surveys and assessments of the facility.

Plaintiff has also recently received the Florida Department of Health and Florida Agency for Health Care Administration Excellence for Maternal Care Award, which highlights hospitals that surpass Florida Department of Health's goal of reducing the rate of C-sections among first-time mothers with low-risk pregnancies. Plaintiff was recognized by BlueCross BlueShield with a Blue Distinction Centers for Bariatric Surgery designation, as part of the Blue Distinction Specialty Care program, and for Knee and Hip Replacement. Plaintiff earned this recognition by providing a full range of bariatric surgical care services, including inpatient care, postoperative

care, follow-up, and patient education that operate to standards set by BlueCross BlueShield, in partnership with physician experts and medical organizations. Aetna has also designated Plaintiff as an Aetna Institute of Quality orthopedic facility for total joint replacement and spine surgery, which it earned by consistently delivering safe and effective orthopedic care.

Healthgrades has awarded Plaintiff numerous Healthgrades accolades. To assess and evaluate hospitals, Healthgrades relies on data from Medicare medical claims records and states' data on Medicare and commercially insured patient outcomes to determine patients' actual clinical outcomes when visiting a given hospital. Plaintiff also received several awards from Healthgrades for various specialties, including:

a. Labor and Delivery

- i. Five-Star Recipient for C-Section Delivery for four years in a row (2022-2025)
- ii. Five-Star Recipient for Vaginal Delivery for 12 years in a row (2014-2025)

b. Outpatient Orthopedic

- i. Five-Star Recipient for Outpatient Back and Neck Surgery (except Spinal Fusion) (2025)
- ii. Recipient of the Healthgrades Outpatient Orthopedic Surgery Excellence Award (2025)

c. Spine Surgery

- i. Five-Star Recipient for Spinal Fusion
- ii. Recipient of the Healthgrades America's 100 Best Hospitals for Spine Surgery Award (2025)

- iii. Top 10% in the Nation for Spine Surgery (2025)
- iv. Recipient of the Healthgrades 2025 Spine Surgery Excellence Award

d. Gastrointestinal

- i. Five-Star Recipient for Treatment of Gastrointestinal Bleed (2024)

In addition, Plaintiff will produce and identify documents reflecting some of Plaintiff's rankings from other organizations.

Interrogatory No. 13: Describe any steps taken by Your hospital to improve any and all of the patient safety measures considered by Leapfrog's Hospital Safety Grade (as set forth on Leapfrog's published scoring methodology documents; see ECF No. 21-3 at 6-10; ECF No. 21-43 at 6-9), before and after each Safety Grade publication of which You complain.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of Plaintiff's improvements to "any and all" patient safety measures considered by Leapfrog's Hospital Safety Grade. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information on metrics other than TLG's Deceptive Score Categories and to the extent it seeks information that is beyond the scope of Leapfrog's Hospital Survey. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 14: State whether You are aware of specific patients who have relied on the Leapfrog Safety Grade in declining to receive healthcare services at Your hospital. In so answering, identify the individual patient that declined to receive services, the date of such declination, the type of service the patient declined to receive, the medium for the communication from the patient (i.e. telephone, video conference, email, letter, etc.), the content of the communication, and the reason given for the stated decision.

Answer: Plaintiff objects to this Interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only

produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Subject to the foregoing objection, Plaintiff has received reports that patients considered or decided not to use Plaintiff's facility because of TLG's misleading grades.

Interrogatory No. 15: Describe any effort Your hospital has made to influence public perception of Your hospital's performance on patient safety following the publication of the Leapfrog Safety Grade.

Answer: Plaintiff objects to this Interrogatory as vague and ambiguous because it does not specify which Leapfrog Safety Grade is at issue. Plaintiff will construe this Interrogatory to reference TLG's deceptive Safety Grades beginning in Fall 2024. Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks "any effort" Plaintiff "has made to influence public perception" after the release of TLG's deceptive and unfair Safety Grades because there have been many such "efforts" and those "efforts" are ongoing given the significant harm caused by TLG's deceptive and unfair business practices.

Subject to the foregoing objections, Plaintiff continues to influence public perception by, among other things, delivering the highest quality care to the community it serves, which, as discussed in response to Interrogatory 12, has led to numerous awards, accreditations, and accolades. In addition, several public statements disputing the misleading nature of the Safety Grade have been made on Plaintiff's behalf.

Interrogatory No. 16: Describe the due diligence Your hospital undertakes to ensure the accuracy of its own publicly reported safety data (including but not limited to data submitted to CMS, the CDC, and third party organizations).

Answer: Plaintiff objects to this Interrogatory as vague and ambiguous due to its use of the undefined term “due diligence.” Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Any “due diligence” Plaintiff performs when reporting to *third parties* has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices, especially when TLG does nothing to ensure the accuracy of information that hospitals that participate in its survey self-report. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 17: Describe in detail how You communicate to the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System the outcome of any and all healthcare safety ratings, evaluative publications, studies, or performance analyses that Your Hospital receives.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff’s communication, if any, with the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System, all non-parties to this litigation, has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 18: State whether the compensation of Your Chief Executive Officer or any other executive-level leadership officers is tied to or related in any way to Your hospital’s performance on patient safety, union worker contracts or Your hospital’s ratings by third party ratings organizations’ ratings publications (including but not limited to the Leapfrog Hospital Safety Grade).

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the

discovery of admissible evidence. Plaintiff's method of compensating its Chief Executive Officer and other executive-level leadership has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 19: Identify all hospitals, medical centers, or healthcare systems that you consider to be your direct competitors within the relevant geographic market during the time period covered by the Complaint and describe in detail the criteria you use to determine whether another hospital or healthcare provider is a competitor.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. The identity of Plaintiff's competitors and "the criteria" used to determine whether a hospital or provide is a competitor has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff also objects to this Interrogatory to the extent it seeks confidential, proprietary information, and commercially sensitive information related to Plaintiff's scoring system and "criteria" used to determine whether a hospital or provide is a competitor.

Subject to the foregoing objections and on condition that this response is considered "Confidential" under the forthcoming agreed confidentiality order, HCA Florida JFK Hospital, HCA Florida Palms West Hospital, Jupiter Medical Center, and Wellington Regional Medical Center are Plaintiff's competitors. Plaintiff considers these hospitals competitors because of their proximity to Plaintiff, their competing services lines, and that patients within Plaintiff's service area go to these hospitals for medical care.

Interrogatory No. 20: State and describe the results of any market analysis, competitive analysis, or consumer perception surveys you have conducted or commissioned regarding your competitors from 2020 to present, and identify the individuals or entities that prepared or participated in such analyses.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. The results of any market analysis, competitive analysis, or consumer perception surveys and the identity of those who prepared or participated in such analyses has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 21: Identify with specificity any comments or concerns raised by any third party payor, bank or lender, or investor related to Your hospital's reputation and/or public perception on issues in any way involving patient safety or satisfaction.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks "comments and concerns" from third parties related generally to Plaintiff's reputation that has nothing to do with the specific and significant reputational harm caused by TLG's misleading grades.

Subject to the foregoing objections, Plaintiff will produce and identify non-privileged documents (if any) related to the significant reputational harm caused by TLG's deceptive and unfair Safety Grades that provide sufficient detail to respond to this Interrogatory.

Interrogatory No. 22: Identify and describe any complaints, concerns, or comments from patients, community members, or referring physicians that relate to the hospital's reputation or comparisons to other hospitals in the region.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks “comments and concerns” from patients, community members, or referring physicians that have nothing to do with the significant reputational harm caused by TLG’s misleading grades. Plaintiff also objects to this interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Subject to the foregoing objections, Plaintiff has received reports that patients and physicians considered or decided not to use Plaintiff’s facility because of TLG’s misleading grades.

Interrogatory No. 23: List with specific detail each and every concern, complaint or comment made by any union, collective bargaining unit or employee association in any way related to patient safety at Your hospital.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks “each and every concern, complaint or comment ” from third parties that have nothing to do with the significant reputational harm caused by TLG’s misleading grades. Plaintiff also objects to this Interrogatory to the extent it seeks health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Subject to the foregoing objections, Plaintiff is unaware of any concern, complaint or comment regarding TLG deceptive scores made by the union at Plaintiff’s hospital.

Interrogatory No. 24: Identify any and all criticism You have received since 2020 from Tenet Healthcare Corporation and/or from any individual executive of Tenet Healthcare Corporation regarding Your hospital's performance in any way.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Any so-called "criticism" has nothing to do with the claims and defenses related to TLG's decision to use deceptive business practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Dated: July 25, 2025

Respectfully submitted,

By: /s/ Lee R. Crain

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*Attorneys for Good Samaritan Medical Center,
Inc.*

CERTIFICATE OF SERVICE

This is to certify that true and correct copies of Plaintiff's Responses and Objections to Defendant The Leapfrog Group's First Sets of Interrogatories to Plaintiff have been served on counsel for The Leapfrog Group by electronic transmission.

/s/ Lee R. Crain
Lee R. Crain

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.

**AFFIDAVIT OF SHERI MONTGOMERY IN SUPPORT OF
PLAINTIFF GOOD SAMARITAN MEDICAL CENTER, INC.'S
RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP'S FIRST SET OF
INTERROGATORIES TO GOOD SAMARITAN MEDICAL CENTER, INC.**

I, Sheri Montgomery, declare as follows:

1. I am over 21 years of age and competent to give this testimony.
2. I am the Chief Executive Officer of Good Samaritan Medical Center, Inc. ("Plaintiff"). I am the corporate representative of Plaintiff for the purpose of answering Defendant The Leapfrog Group's First Set of Interrogatories to Good Samaritan Medical Center, Inc. I have read the foregoing interrogatories and the answers to those interrogatories, which are true according to the best of my knowledge, information, and belief.

3. I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 25, 2025.

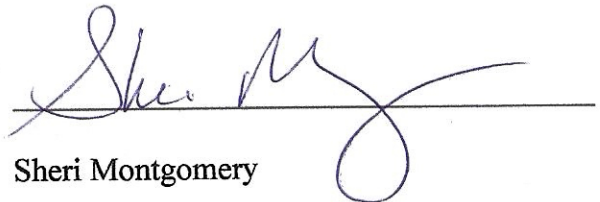

Sheri Montgomery

EXHIBIT 3B

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.

**PLAINTIFF DELRAY MEDICAL CENTER, INC.’S
RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP’S FIRST SET OF
INTERROGATORIES TO DELRAY MEDICAL CENTER**

Pursuant to Federal Rules of Civil Procedure 26 and 33 and the *Pretrial Scheduling Order and Order Referring Case to Mediation* (ECF No. 36) (the “Pretrial Scheduling Order”), Plaintiff Delray Medical Center, Inc.(“Plaintiff”), by and through its undersigned counsel, hereby submits its responses and objections (“Responses”), to Defendant The Leapfrog Group’s (“TLG”) First Set of Interrogatories, dated July 11, 2025 (the “Interrogatories” and each numbered interrogatory, an “Interrogatory”) in the above-captioned action (the “Action”).

Plaintiff’s Responses to the Interrogatories are made solely for purposes of this Action and to the best of Plaintiff’s present knowledge, information, and belief regarding the matters about which inquiry have been made. Discovery is ongoing, and Plaintiff reserves the right to amend, supplement, clarify, or further explain its Responses at any time prior to the trial in

this Action. Plaintiff further reserves the right to raise any additional objections deemed necessary or appropriate in light of any further review.

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. Plaintiff objects to the definition of terms “Plaintiffs” and “Plaintiff Hospitals” as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it seeks to require Plaintiffs to respond on behalf of entities or individuals other than themselves.

2. Plaintiff objects to the definition of the terms “Delray,” “Delray Medical Center,” “Plaintiff,” “You,” and “Your” to the extent each term seeks to require Plaintiff to respond on behalf of entities or individuals other than themselves, including on behalf of agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

3. Plaintiff objects to the definition of the terms “Tenet Healthcare” and “Tenet” to the extent it seeks to require Plaintiff to respond on behalf of entities or individuals other than itself, including on behalf of Tenet, Tenet’s agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

4. Plaintiffs object to the definition of “identify, when referring to a person,” as overbroad and unduly burdensome to the extent it calls for the “address” and “present or last-known employer” of identified individuals. Such information is overbroad and beyond the scope of permissible discovery.

5. Plaintiff objects to the instruction that the relevant time period for the Interrogatories begins on January 1, 2020. Plaintiff will apply to each Interrogatory the time period

of November 1, 2023 to present (the “Relevant Time Period”). Any response to an Interrogatory that provides information that falls outside of the Relevant Time Period should not be construed as an admission that the Relevant Time Period begins prior to January 1, 2023.

SPECIFIC RESPONSES TO INTERROGATORIES

Interrogatory No. 1: State the full name, address, job title or position, and hospital or employer affiliation of all individuals that assisted with responding to these interrogatories.

Answer: The following individuals assisted with responding to these Interrogatories.

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Heather Havericak	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Chief Executive Officer	Delray Medical Center
Regina West	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Market Quality Director	Palm Beach Health Network and St. Mary's Medical Center

Interrogatory No. 2: Identify every individual not identified in Your Rule 26(a) initial disclosures with knowledge of facts pertaining to the allegations in Your Complaint in this Lawsuit (and any subsequent amendments) and/or whom You believe may have discoverable knowledge, information or data regarding this matter, including those who You expect to call as a fact or opinion witness at any hearing in this proceeding or whose testimony (by affidavit, deposition or testimony) You intended to submit in connection with this proceeding, and the substance of his/her testimony or affidavit, and, with respect to each person identified, provide:

- A. full name,
- B. address,
- C. telephone number,
- D. job title or position,
- E. hospital or employer affiliation,
- F. and describe in detail the facts possessed by each such person.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of “every individual...with

knowledge” or who “may have discoverable knowledge, information or data regarding this matter.” Plaintiff will not provide more than the identity of individuals most likely to have knowledge regarding this matter. Plaintiff further objects to this Interrogatory as premature because it requests disclosure of Plaintiff’s witnesses for hearings and the substance of witness testimony before such disclosure is required under applicable law or the Pretrial Scheduling Order. Plaintiff will submit its trial witness list on October 2, 2025, per the Pretrial Scheduling Order, and disclose any other witnesses and witness testimony as further ordered by the Court or otherwise required by applicable law. Plaintiff also objects to this Interrogatory’s request for the identity of “opinion witness[es]” as vague, since witnesses are either “fact” or “expert” witnesses. Plaintiff will interpret “opinion witness” to mean “expert witness.” Plaintiff objects to this Interrogatory as premature to the extent it seeks disclosure of Plaintiff’s expert witness(es). Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Subject to the foregoing objection, Plaintiff will amend its Rule 26(a)(1) Initial Disclosures to identify additional individuals who may have knowledge of facts pertaining to the allegations in the Complaint.

Interrogatory No. 3: Describe in detail all factual bases for Your contention that Leapfrog’s published Safety Grade for Your hospital was false, inaccurate, misleading, deceptive, or unfair. In so answering, identify with particularity each measure, data point, or metric that You contend was inaccurately reported, calculated, or misrepresented by Leapfrog in calculating the Safety Grade for Your hospital.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all factual bases” for Plaintiff’s contention. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure:

Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory as premature to the extent it requests that Plaintiff “[d]escribe in detail all factual bases” to support its contention . *In re Reliance Fin. & Inv. Grp., Inc.*, 2006 WL 8435541, at *4 (S.D. Fla. Feb. 14, 2006) (Contention interrogatories “are more appropriately used after a substantial amount of discovery has been conducted--typically, at the end of the discovery period.”). Plaintiff also objects to this Interrogatory to the extent it attempts to limit or mischaracterize Plaintiff’s claim as just challenging the false, inaccurate, misleading, deceptive, or unfair nature of TLG’s Safety Grade. As the Court explained in its order denying TLG’s motion to dismiss, the core of the Complaint is “a challenge to Defendant’s representations about its methodology, which they claim mislead consumers by failing to distinguish between absent data and damning data, and professing that grades are not influenced by a hospital’s lack of survey participation.” *Order on Motion to Dismiss* 6 (ECF No. 41). Plaintiff also challenges the provably false facts and deceptive scoring system underlying these grades, which TLG admits it relies on to arrive at its deceptive Safety Grades.

Subject to the foregoing objections and as more fully stated in the *Complaint and Demand for Jury Trial* (ECF No. 1) (“Complaint”), TLG has engaged in deceptive and unfair business practices and misrepresentations when issuing the Safety Grade for Plaintiff’s hospital as part of TLG’s annual “Hospital Survey.” TLG posts these Safety Grades online at hospitalsafetygrade.org.

To arrive at these Safety Grades, TLG uses CMS data, survey responses from participating hospitals, and other supplemental data sources. For participating hospitals, TLG uses the hospitals’ self-reported responses to the Hospital Survey for 12 of the 22 measures. For non-participating hospitals, TLG uses other sources for those 12 measures. For the remaining four measures—Computerized Physician Order Entry, Bar Code Medication Administration, ICU Physician Staffing, and Hand Hygiene Score (the “Deceptive Score Categories”)—TLG devised and uses a

so-called “imputation model.” Prior to Fall 2024, TLG’s imputation model assigned non-participating hospitals a score based on the average score applicable to a similarly situated hospital. Beginning in Fall 2024, TLG modified its imputation model. TLG now assigns the lowest possible score to non-participating hospitals, which has the effect of punishing non-participating hospitals and artificially deflating their Safety Grades. TLG has even admitted the changes in Fall 2024 were designed to penalize non-participating hospitals. TLG also misleads consumers about how it grades hospitals, stating “[t]he Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the [TLG] Hospital Survey.” *Declaration of Lee Crain* (ECF No. 21) (“Crain Decl.”), Ex. 1 at 4 (“Frequently Asked Questions About the Leapfrog Hospital Safety Grade”).

As TLG explains, “not all hospitals have enough data publicly available to be eligible for a grade.” Crain Decl. Ex. 1 at 5. “As per the National Expert Panel guidance, [TLG] has requirements for the minimum amount of data [it] need[s] to issue an accurate grade.” Crain Decl. Ex. 1 at 5. According to TLG, “[h]ospitals missing more than six process measures” are “not graded.” Crain Decl. Ex. 2 at 6. Non-participating hospitals should fall easily into that “not graded” bucket, because their decision not to participate in TLG’s survey necessarily means TLG is missing seven process measures that rely on voluntary submission of hospital data.¹

TLG then deceptively conceals how it makes up grades for the four “imputation” measures and even suggests on its website that TLG *does* have data sufficient to score TLG on those four measures. By way of example, TLG acknowledges that Plaintiff “Declined to Report” information in response to questions about “Staff work[ing] together,” but then tells consumers—as if it were

¹ Those seven include CPOE, BCMA, IPS, Safe Practice 1: Culture of Leadership Structures and Systems; Safe Practice 2: Culture Measurement, Feedback & Intervention; Total Nursing Care Hours per Patient Day; and Hand Hygiene.

a fact—that Plaintiff is “Worse Than Average” on “Handwashing,” “Communication,” “medication administration,” and the like—even though TLG has no basis whatsoever to adopt those conclusions. Crain Decl. Ex. 32 at 2. TLG itself says handwashing is among the “most important” measures in its survey, Crain Decl. Ex. 15 at 4, yet it deceptively conceals that it has no data with which to grade the Plaintiff hospital on that measure. *Defendant The Leapfrog Group’s Responses to Plaintiffs’ Requests for Production* at 7 (“Leapfrog is not itself in possession of data showing Plaintiffs’ performance on the ‘imputed metrics’ considered by the methodology.”). Of course, Plaintiff in fact has a comprehensive and thorough handwashing policy. And had Plaintiff merely filled out TLG’s survey, it would have received a full two letter grades higher on TLG’s score. *Declaration of Sean Nicholson* (ECF No. 22) (“Nicholson Decl.”), Ex. 3.

Based on the foregoing, and as more fully set forth in the Complaint, TLG engages in deceptive trade practices by, among other things, deceiving consumers about its grading methods by implying that Plaintiff has failed on certain measures that, in truth, TLG has no data or other basis to evaluate; deceiving consumers by telling them the Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the Hospital Survey; deceiving consumers when it represents that it does not grade hospitals if it lacks sufficient data, when, in truth, it does grade hospitals by “imputing” or making up a grade for the Deceptive Score Categories; hiding the truth about its “imputation model” from consumers by burying it in fine print on a separate website; punishing non-participating hospitals by “imputing” scores, which artificially deflate a hospital’s Safety Grade; and favoring participating hospitals. Additional factual bases for the Plaintiff’s claims are presented in the Complaint.

Interrogatory No. 4: Describe the scoring or grading methodology You believe Leapfrog should have used to assess Your hospital's patient safety performance and explain why that method would yield a different result.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's provision of an alternative scoring or grading methodology has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it calls for speculation. Plaintiff also objects to this Interrogatory as premature to the extent it seeks information that may be the subject of expert testimony. Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 5: State whether You submitted any data, corrections, or appeals to Leapfrog regarding the Safety Grade Your hospital received, and for each such submission, identify the date of the submission, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the submission, and the content of the submission.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Whether or not Plaintiff submitted "any data, corrections, or appeals to Leapfrog regarding the Safety Grade" Plaintiff hospital received has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Subject to the foregoing objections, correspondence was sent on Plaintiff's behalf prior to the commencement of this case demanding that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, but at every turn TLG refused.

Interrogatory No. 6: State whether You provided any comment or input in any form during Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade methodology that was proposed for the calculation of Hospital Safety Grades (including but not limited to for the Fall 2024 methodology update). If yes, please identify the date of the comment, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the comment and the content of the comment. If no, please state the reason why You chose not to comment.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Whether or not Plaintiff submitted "any comment or input" in response to TLG's request for public comments has nothing to do the with claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Subject to the foregoing objections, Plaintiff did not provide comments in response to Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade scoring system because Plaintiff generally does not respond to requests for public comment from private entities like TLG.

Interrogatory No. 7: Describe all actions Your hospital took in response to (or in deciding not to respond to) its Safety Grade or the Hospital Survey, including internal meetings, media statements, or public relations efforts. In so answering, state the date of the action, the individuals involved in the action and the content of the action.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all actions” Plaintiffs may have taken in response to TLG’s Safety Grades. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, No. 14-81476-CIV, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure: Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Subject to the foregoing objections, Plaintiff devoted substantial time and resources that could have otherwise been spent continuing to improve patient care to respond to the significant harm and disruption caused by TLG’s deceptive and unfair Safety Grade. Plaintiff’s response included meeting internally with Plaintiff’s leadership team, medical executive committee, and governing board, corresponding with TLG to demand that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, and devoting substantial time and resources to facilitate the preparation and prosecution of this Action.

Interrogatory No. 8: Identify any and all persons, whether internal or external (e.g., patients, vendors, affiliates, parents, agents, partners, media) with whom You communicated in any way with respect to the Safety Grade or the Hospital Survey. In so answering, state the date of the communication, the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.) and the content of the communication.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of “any and all persons, whether internal or external.” Plaintiff will disclose the categories of individuals with whom Plaintiff communicated about the Safety Grade or Hospital Survey during the Relevant Time

Period. Plaintiff also object to this Interrogatory to the extent it seeks protected health information that Health Insurance Portability and Accountability Act (“HIPAA”), among other statutes and regulations, bars Plaintiff from disclosing. Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Subject to the foregoing objections, Plaintiff communicated with the following categories of people regarding the Safety Grade or the Hospital Survey: Plaintiff’s governing board, its medical executive committee, department directors, and physicians and nurses when asked about the Safety Grade or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grade for Plaintiff’s hospital. Most of these communications occurred during regularly scheduled meetings, during which attendees were told about TLG’s release of the deceptive and unfair Safety Grade, that Plaintiff does not participate in the Hospital Survey because it is unreliable and not an accurate reflection of hospital quality and safety or patient outcomes, and that the Safety Grade, which was not based on any information provided by Plaintiff, was misleading. The Palm Beach Health Network also issued a press release and since then, has engaged in marketing efforts to counteract TLG’s deceptive scores on behalf of Plaintiff.

Interrogatory No. 9: Describe all instances in which a third party declined to contract with, refer patients to, or work with Your hospital, where Leapfrog’s grade was cited or discussed. In so identifying list the name of the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.), the date of the communication and the content of the communication.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it requires Plaintiff to “[d]escribe all instances” in which a third party took an action in response to TLG’s deceptive grade.

Subject to the foregoing objection, Plaintiff is not aware of any responsive instances.

Interrogatory No. 10: Describe with specificity the basis for each and every category of damage You claim You incurred as a result of the Leapfrog Safety Grade. In so identifying, list each category of damages and the dollar value of each category of damage You claim.

Answer: Plaintiff objects to this Interrogatory as premature to the extent it seeks information that may be the subject of expert testimony. Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Interrogatory No. 11: Identify all adverse patient events which occurred at Your hospital, including any citations received from regulatory agencies, accrediting agencies, and third party payors such as The Joint Commission, CMS, state health departments, etc. during the period covered by each Leapfrog Safety Grade publication of which You complain (i.e., Fall 2024, Fall 2025, etc.), as well as any complaints received from patients regarding the same.

Answer: Plaintiff objects to this Interrogatory because it is overly broad, unduly burdensome, seeks discovery of information that is irrelevant to the claims and defenses in this Action, seeks information that is beyond the scope of Leapfrog’s Hospital Survey, and is not reasonably calculated to lead to the discovery of admissible evidence. TLG does not include “all adverse patient events,” “citations received from” agencies or payors, or “complaints received from patients” in TLG’s determination of its Hospital Safety Grades or request such information in the Hospital Survey, so any such information is irrelevant to whether TLG’s actions constitute unfair or deceptive trade practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff also objects to this Interrogatory to the extent it seeks protected health

information that HIPAA, among other statutes and regulations, bars Plaintiff from disclosing. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 12: Describe in detail how Your hospital compares nationally on on [sic] any other ranking of patient safety performance, including but not limited to Vizient, Inc., Premier, Inc., HealthTrust Purchasing Group, The Joint Commission, HealthGrades, US News, Newsweek, Statista, Definitive Healthcare, or any other quality benchmarking entity including benchmarking on patient safety including on adverse events and on healthcare-acquired infections.

Answer: Plaintiff objects to this Interrogatory's request that Plaintiff "[d]escribe in detail how Your hospital compares nationally" based on undisclosed "benchmarking" as vague and confusing. To the extent this Interrogatory seeks the top-line rankings of the identified organizations, Plaintiff objects to this Interrogatory because such information is publicly and equally available to TLG. To the extent this Interrogatory asks Plaintiff to compare itself to the named and unnamed entities, that request is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Other organizations' rankings have nothing to do with the claims and defenses in this case related to the Deceptive Score Categories or TLG's decision to use deceptive business practices.

Subject to the foregoing objections, Plaintiff has received numerous awards and accolades. For example, Plaintiff was awarded the Resuscitation Center of Excellence award for 2025, becoming the first hospital in Palm Beach County to be named a Florida Resuscitation Center of Excellence. To do so, Plaintiff met approximately 15 criteria for patient care that were established by the Florida Resuscitation Center Committee, including intensive neurological monitoring, strong collaboration with Emergency Medical Services partners, and community outreach programs to promote health and lifestyle modifications to decrease the prevalence of cardiac

disease. Additionally, the American College of Surgeons awarded Plaintiff the Metabolic and Bariatric Surgery Accreditation and Quality Improvement Program (“MBSAQIP”) Surgery Center of Excellence award, which is dedicated to enhancing the safety and quality of care for bariatric patients in the United States and Canada. MBSAQIP accreditation promotes uniform standards and continuous quality improvement.

Plaintiff also earned DNV GL Comprehensive Stroke certification, which means Plaintiff gives the highest quality of care to most complete patient cases and offers evidence-based treatments with cutting-edge research protocols. Additionally, Plaintiff earned the VQI (Vascular Quality Initiative) Carotid Care Champion this year, which honors participants that are dedicated to improving the safety and effectiveness of vascular care. Plaintiff is also accredited by the Joint Commission, the nation’s largest hospital accreditor that evaluates hospitals’ quality performance standards through an objective evaluation process. Plaintiff also earned a Certification for the American Association of Cardiovascular and Pulmonary Rehabilitation Program. This accreditation is peer-reviewed and designed to review individual facilities.

The American Heart Association honored Plaintiff with “Get with the Guidelines” Gold Plus awards in three specializations. First, Plaintiff earned the Target Stroke Honor Roll Elite, meaning Plaintiff is able to achieve door-to-needle times of within 60 minutes for at least 85% of applicable patients. Second, Plaintiff earned the Target Stroke Honor Roll Advanced Therapy, meaning that 50% of applicable patients are able to achieve door-to-device times of 90 minutes or less in the case of directly arriving patients, and 60 minutes or less for transfer patients. Third, Plaintiff earned the Target Type II Diabetes Honor Roll, meaning that Plaintiff met numerous requirements, including qualifying for a Silver level or higher Achievement Award in the “Get with the Guidelines-Heart Failure, Stroke, and/or Coronary Artery Disease” modules. The entities that

award and assign these accreditations and certifications visit the healthcare facility and perform regular periodic in-person reviews, audits, surveys, and assessments of the facility.

In 2025, the medical ranking organization Healthgrades named Plaintiff one of the top 250 hospitals in the country. To assess and evaluate hospitals, Healthgrades relies on data from Medicare medical claims records and states' data on Medicare and commercially insured patient outcomes to determine patients' actual clinical outcomes when visiting a given hospital. Healthgrades also assigned Plaintiff the following awards:

a. Cardiac Care

- i. Five-Star Recipient for Valve Surgery (2024-2025, two years in a row)
- ii. Five-Star Recipient for Treatment of Heart Attack (2024-2025, two years in a row)
- iii. Five-Star Recipient for Treatment of Heart Failure (2003-2025, 23 years in a row)
- iv. Five-Star Recipient for Defibrillator Procedures (2024-2025, two years in a row)
- v. Five-Star Recipient for Treatment of Stroke (2008-2025, 18 years in a row)
- vi. Five-Star Recipient for Coronary Interventional Procedures (2024)

b. Pulmonary Care

- i. One of Healthgrades America's 100 Best Hospitals for Pulmonary Care in 2025
- ii. Recipient of the Healthgrades 2025 Pulmonary Care Excellence Award
- iii. Top 5% in the Nation for Overall Pulmonary Services (2025)

- iv. Top 10% in the Nation for Overall Pulmonary Services (2025)
- v. Five-Star Recipient for Treatment of Pneumonia (2024-2025, two years in a row)

c. Critical Care

- i. Recipient of the Healthgrades 2025 Critical Care Excellence Award
- ii. Top 5% in the Nation for Critical Care (2025)
- iii. Top 10% in the Nation for Critical Care (2025)
- iv. Five-Star Recipient for Treatment of Sepsis (2004-2025, 22 years in a row)
- v. Five-Star Recipient for Treatment of Respiratory Failure (2023-2025, three years in a row)

d. Gastrointestinal

- i. Five-Star Recipient for Upper Gastrointestinal Surgery (2022-2024, three years in a row)
- ii. Five-Star Recipient for Small Intestine Surgeries (2017-2021 (five years in a row), 2024)

e. Neurosurgery

- i. Five-Star Recipient for Cranial Neurosurgery (2024)

In addition, Plaintiff will produce and identify documents reflecting some of Plaintiff's rankings from other organizations.

Interrogatory No. 13: Describe any steps taken by Your hospital to improve any and all of the patient safety measures considered by Leapfrog's Hospital Safety Grade (as set forth on Leapfrog's published scoring methodology documents; see ECF No. 21-3 at 6-10; ECF No. 21-43 at 6-9), before and after each Safety Grade publication of which You complain.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of Plaintiff's improvements to "any and all" patient safety measures considered by Leapfrog's Hospital Safety Grade. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information on metrics other than TLG's Deceptive Score Categories and to the extent it seeks information that is beyond the scope of Leapfrog's Hospital Survey. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 14: State whether You are aware of specific patients who have relied on the Leapfrog Safety Grade in declining to receive healthcare services at Your hospital. In so answering, identify the individual patient that declined to receive services, the date of such declination, the type of service the patient declined to receive, the medium for the communication from the patient (i.e. telephone, video conference, email, letter, etc.), the content of the communication, and the reason given for the stated decision.

Answer: Plaintiff objects to this Interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Subject to the foregoing objection, Plaintiff has received reports that patients considered or decided not to use Plaintiff's facility because of TLG's misleading grades.

Interrogatory No. 15: Describe any effort Your hospital has made to influence public perception of Your hospital's performance on patient safety following the publication of the Leapfrog Safety Grade.

Answer: Plaintiff objects to this Interrogatory as vague and ambiguous because it does not specify which Leapfrog Safety Grade is at issue. Plaintiff will construe this Interrogatory to reference

TLG's deceptive Safety Grades beginning in Fall 2024. Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks "any effort" Plaintiff "has made to influence public perception" after the release of TLG's deceptive and unfair Safety Grades because there have been many such "efforts" and those "efforts" are ongoing given the significant harm caused by TLG's deceptive and unfair business practices.

Subject to the foregoing objections, Plaintiff continues to influence public perception by, among other things, delivering the highest quality care to the community it serves, which, as discussed in response to Interrogatory 12, has led to numerous awards, accreditations, and accolades. In addition, several public statements disputing the misleading nature of the Safety Grade have been made on Plaintiff's behalf.

Interrogatory No. 16: Describe the due diligence Your hospital undertakes to ensure the accuracy of its own publicly reported safety data (including but not limited to data submitted to CMS, the CDC, and third party organizations).

Answer: Plaintiff objects to this Interrogatory as vague and ambiguous due to its use of the undefined term "due diligence." Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Any "due diligence" Plaintiff performs when reporting to *third parties* has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices, especially when TLG does nothing to ensure the accuracy of information that hospitals that participate in its survey self-report. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 17: Describe in detail how You communicate to the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System the outcome of any and all healthcare safety ratings, evaluative publications, studies, or performance analyses that Your Hospital receives.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's communication, if any, with the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System, all non-parties to this litigation, has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 18: State whether the compensation of Your Chief Executive Officer or any other executive-level leadership officers is tied to or related in any way to Your hospital's performance on patient safety, union worker contracts or Your hospital's ratings by third party ratings organizations' ratings publications (including but not limited to the Leapfrog Hospital Safety Grade).

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's method of compensating its Chief Executive Officer and other executive-level leadership has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 19: Identify all hospitals, medical centers, or healthcare systems that you consider to be your direct competitors within the relevant geographic market during the time period covered by the Complaint and describe in detail the criteria you use to determine whether another hospital or healthcare provider is a competitor.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. The identity of Plaintiff's competitors and "the criteria" used to determine whether a hospital or provide is a competitor has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff also objects to this Interrogatory to the extent it seeks confidential, proprietary information, and commercially sensitive information related to Plaintiff's scoring system and "criteria" used to determine whether a hospital or provide is a competitor.

Subject to the foregoing objections and on condition that this response is considered "Confidential" under the forthcoming agreed confidentiality order, Bethesda Hospital East, Bethesda Hospital West, Boca Raton Regional Hospital, and HCA Florida JFK Hospital are Plaintiff's competitors. Plaintiff considers these hospitals competitors because of their proximity to Plaintiff, their competing services lines, and that patients within Plaintiff's service area go to these hospitals for medical care.

Interrogatory No. 20: State and describe the results of any market analysis, competitive analysis, or consumer perception surveys you have conducted or commissioned regarding your competitors from 2020 to present, and identify the individuals or entities that prepared or participated in such analyses.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. The results of any market analysis, competitive analysis, or consumer perception surveys and the identity of those who prepared or participated in such analyses has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 21: Identify with specificity any comments or concerns raised by any third party payor, bank or lender, or investor related to Your hospital's reputation and/or public perception on issues in any way involving patient safety or satisfaction.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks "comments and concerns" from third parties related generally to Plaintiff's reputation that has nothing to do with the specific and significant reputational harm caused by TLG's misleading grades.

Subject to the foregoing objections, Plaintiff will produce and identify non-privileged documents (if any) related to the significant reputational harm caused by TLG's deceptive and unfair Safety Grades that provide sufficient detail to respond to this Interrogatory.

Interrogatory No. 22: Identify and describe any complaints, concerns, or comments from patients, community members, or referring physicians that relate to the hospital's reputation or comparisons to other hospitals in the region.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks "comments and concerns" from patients, community members, or referring physicians that have nothing to do with the significant reputational harm caused by TLG's misleading grades. Plaintiff also objects to this interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Subject to the foregoing objections, Plaintiff has received reports that patients and physicians considered or decided not to use Plaintiff's facility because of TLG's misleading grades.

Interrogatory No. 23: List with specific detail each and every concern, complaint or comment made by any union, collective bargaining unit or employee association in any way related to patient safety at Your hospital.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks “each and every concern, complaint or comment ” from third parties that have nothing to do with the significant reputational harm caused by TLG’s misleading grades. Plaintiff also objects to this Interrogatory to the extent it seeks health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Subject to the foregoing objections, there is no union, collective bargaining unit, or employee association at Plaintiff.

Interrogatory No. 24: Identify any and all criticism You have received since 2020 from Tenet Healthcare Corporation and/or from any individual executive of Tenet Healthcare Corporation regarding Your hospital’s performance in any way.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Any so-called “criticism” has nothing to do with the claims and defenses related to TLG’s decision to use deceptive business practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Dated: July 25, 2025

Respectfully submitted,

By: /s/ Lee R. Crain

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Attorneys for Delray Medical Center, Inc.

CERTIFICATE OF SERVICE

This is to certify that true and correct copies of Plaintiff's Responses and Objections to Defendant The Leapfrog Group's First Sets of Interrogatories to Plaintiff have been served on counsel for The Leapfrog Group by electronic transmission.

/s/ Lee R. Crain
Lee R. Crain

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,

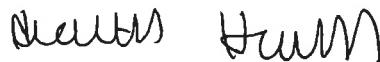
Defendant.

**AFFIDAVIT OF HEATHER HAVERICAK IN SUPPORT OF
PLAINTIFF DELRAY MEDICAL CENTER, INC.'S
RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP'S FIRST SET OF
INTERROGATORIES TO DELRAY MEDICAL CENTER**

I, Heather Havericak, declare as follows:

1. I am over 21 years of age and competent to give this testimony.
2. I am the Chief Executive Officer of Delray Medical Center, Inc. ("Plaintiff"). I am the corporate representative of Plaintiff for the purpose of answering Defendant The Leapfrog Group's First Set of Interrogatories to Delray Medical Center. I have read the foregoing interrogatories and the answers to those interrogatories, which are true according to the best of my knowledge, information, and belief.
3. I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 25, 2025.



Heather Havericak

EXHIBIT 3C

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.

**PLAINTIFF PALM BEACH GARDENS MEDICAL CENTER’S
RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP’S FIRST SET OF
INTERROGATORIES TO PALM BEACH GARDENS MEDICAL CENTER**

Pursuant to Federal Rules of Civil Procedure 26 and 33 and the *Pretrial Scheduling Order and Order Referring Case to Mediation* (ECF No. 36) (the “Pretrial Scheduling Order”), Plaintiff Palm Beach Gardens Medical Center’s (“Plaintiff”), by and through its undersigned counsel, hereby submits its responses and objections (“Responses”), to Defendant The Leapfrog Group’s (“TLG”) First Set of Interrogatories, dated July 11, 2025 (the “Interrogatories” and each numbered interrogatory, an “Interrogatory”) in the above-captioned action (the “Action”).

Plaintiff’s Responses to the Interrogatories are made solely for purposes of this Action and to the best of Plaintiff’s present knowledge, information, and belief regarding the matters about which inquiry have been made. Discovery is ongoing, and Plaintiff reserves the right to amend, supplement, clarify, or further explain its Responses at any time prior to the trial in

this Action. Plaintiff further reserves the right to raise any additional objections deemed necessary or appropriate in light of any further review.

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. Plaintiff objects to the definition of terms “Plaintiffs” and “Plaintiff Hospitals” as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it seeks to require Plaintiffs to respond on behalf of entities or individuals other than themselves.

2. Plaintiff objects to the definition of the terms “Palm Beach Gardens,” “Palm Beach Gardens Medical Center,” “Plaintiff,” “You,” and “Your” to the extent each term seeks to require Plaintiff to respond on behalf of entities or individuals other than themselves, including on behalf of agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

3. Plaintiff objects to the definition of the terms “Tenet Healthcare” and “Tenet” to the extent it seeks to require Plaintiff to respond on behalf of entities or individuals other than itself, including on behalf of Tenet, Tenet’s agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

4. Plaintiffs object to the definition of “identify, when referring to a person,” as overbroad and unduly burdensome to the extent it calls for the “address” and “present or last-known employer” of identified individuals. Such information is overbroad and beyond the scope of permissible discovery.

5. Plaintiff objects to the instruction that the relevant time period for the Interrogatories begins on January 1, 2020. Plaintiff will apply to each Interrogatory the time period

of November 1, 2023 to present (the “Relevant Time Period”). Any response to an Interrogatory that provides information that falls outside of the Relevant Time Period should not be construed as an admission that the Relevant Time Period begins prior to January 1, 2023.

SPECIFIC RESPONSES TO INTERROGATORIES

Interrogatory No. 1: State the full name, address, job title or position, and hospital or employer affiliation of all individuals that assisted with responding to these interrogatories.

Answer: The following individuals assisted with responding to these Interrogatories.

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Erik Cazares	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Chief Executive Officer	Palm Beach Gardens Community Hospital
Regina West	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Market Quality Director	Palm Beach Health Network and St. Mary's Medical Center

Interrogatory No. 2: Identify every individual not identified in Your Rule 26(a) initial disclosures with knowledge of facts pertaining to the allegations in Your Complaint in this Lawsuit (and any subsequent amendments) and/or whom You believe may have discoverable knowledge, information or data regarding this matter, including those who You expect to call as a fact or opinion witness at any hearing in this proceeding or whose testimony (by affidavit, deposition or testimony) You intended to submit in connection with this proceeding, and the substance of his/her testimony or affidavit, and, with respect to each person identified, provide:

- A. full name,
- B. address,
- C. telephone number,
- D. job title or position,
- E. hospital or employer affiliation,
- F. and describe in detail the facts possessed by each such person.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of “every individual...with

knowledge” or who “may have discoverable knowledge, information or data regarding this matter.” Plaintiff will not provide more than the identity of individuals most likely to have knowledge regarding this matter. Plaintiff further objects to this Interrogatory as premature because it requests disclosure of Plaintiff’s witnesses for hearings and the substance of witness testimony before such disclosure is required under applicable law or the Pretrial Scheduling Order. Plaintiff will submit its trial witness list on October 2, 2025, per the Pretrial Scheduling Order, and disclose any other witnesses and witness testimony as further ordered by the Court or otherwise required by applicable law. Plaintiff also objects to this Interrogatory’s request for the identity of “opinion witness[es]” as vague, since witnesses are either “fact” or “expert” witnesses. Plaintiff will interpret “opinion witness” to mean “expert witness.” Plaintiff objects to this Interrogatory as premature to the extent it seeks disclosure of Plaintiff’s expert witness(es). Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Subject to the foregoing objection, Plaintiff will amend its Rule 26(a)(1) Initial Disclosures to identify additional individuals who may have knowledge of facts pertaining to the allegations in the Complaint.

Interrogatory No. 3: Describe in detail all factual bases for Your contention that Leapfrog’s published Safety Grade for Your hospital was false, inaccurate, misleading, deceptive, or unfair. In so answering, identify with particularity each measure, data point, or metric that You contend was inaccurately reported, calculated, or misrepresented by Leapfrog in calculating the Safety Grade for Your hospital.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all factual bases” for Plaintiff’s contention. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure:

Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory as premature to the extent it requests that Plaintiff “[d]escribe in detail all factual bases” to support its contention . *In re Reliance Fin. & Inv. Grp., Inc.*, 2006 WL 8435541, at *4 (S.D. Fla. Feb. 14, 2006) (Contention interrogatories “are more appropriately used after a substantial amount of discovery has been conducted--typically, at the end of the discovery period.”). Plaintiff also objects to this Interrogatory to the extent it attempts to limit or mischaracterize Plaintiff’s claim as just challenging the false, inaccurate, misleading, deceptive, or unfair nature of TLG’s Safety Grade. As the Court explained in its order denying TLG’s motion to dismiss, the core of the Complaint is “a challenge to Defendant’s representations about its methodology, which they claim mislead consumers by failing to distinguish between absent data and damning data, and professing that grades are not influenced by a hospital’s lack of survey participation.” *Order on Motion to Dismiss* 6 (ECF No. 41). Plaintiff also challenges the provably false facts and deceptive scoring system underlying these grades, which TLG admits it relies on to arrive at its deceptive Safety Grades.

Subject to the foregoing objections and as more fully stated in the *Complaint and Demand for Jury Trial* (ECF No. 1) (“Complaint”), TLG has engaged in deceptive and unfair business practices and misrepresentations when issuing the Safety Grade for Plaintiff’s hospital as part of TLG’s annual “Hospital Survey.” TLG posts these Safety Grades online at hospitalsafetygrade.org.

To arrive at these Safety Grades, TLG uses CMS data, survey responses from participating hospitals, and other supplemental data sources. For participating hospitals, TLG uses the hospitals’ self-reported responses to the Hospital Survey for 12 of the 22 measures. For non-participating hospitals, TLG uses other sources for those 12 measures. For the remaining four measures—Computerized Physician Order Entry, Bar Code Medication Administration, ICU Physician Staffing, and Hand Hygiene Score (the “Deceptive Score Categories”)—TLG devised and uses a

so-called “imputation model.” Prior to Fall 2024, TLG’s imputation model assigned non-participating hospitals a score based on the average score applicable to a similarly situated hospital. Beginning in Fall 2024, TLG modified its imputation model. TLG now assigns the lowest possible score to non-participating hospitals, which has the effect of punishing non-participating hospitals and artificially deflating their Safety Grades. TLG has even admitted the changes in Fall 2024 were designed to penalize non-participating hospitals. TLG also misleads consumers about how it grades hospitals, stating “[t]he Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the [TLG] Hospital Survey.” *Declaration of Lee Crain* (ECF No. 21) (“Crain Decl.”), Ex. 1 at 4 (“Frequently Asked Questions About the Leapfrog Hospital Safety Grade”).

As TLG explains, “not all hospitals have enough data publicly available to be eligible for a grade.” Crain Decl. Ex. 1 at 5. “As per the National Expert Panel guidance, [TLG] has requirements for the minimum amount of data [it] need[s] to issue an accurate grade.” Crain Decl. Ex. 1 at 5. According to TLG, “[h]ospitals missing more than six process measures” are “not graded.” Crain Decl. Ex. 2 at 6. Non-participating hospitals should fall easily into that “not graded” bucket, because their decision not to participate in TLG’s survey necessarily means TLG is missing seven process measures that rely on voluntary submission of hospital data.¹

TLG then deceptively conceals how it makes up grades for the four “imputation” measures and even suggests on its website that TLG *does* have data sufficient to score TLG on those four measures. By way of example, TLG acknowledges that Plaintiff “Declined to Report” information in response to questions about “Staff work[ing] together,” but then tells consumers—as if it were

¹ Those seven include CPOE, BCMA, IPS, Safe Practice 1: Culture of Leadership Structures and Systems; Safe Practice 2: Culture Measurement, Feedback & Intervention; Total Nursing Care Hours per Patient Day; and Hand Hygiene.

a fact—that Plaintiff is “Worse Than Average” on “Handwashing,” “Communication,” “medication administration,” and the like—even though TLG has no basis whatsoever to adopt those conclusions. Crain Decl. Ex. 34 at 2. TLG itself says handwashing is among the “most important” measures in its survey, Crain Decl. Ex. 15 at 4, yet it deceptively conceals that it has no data with which to grade the Plaintiff hospital on that measure. *Defendant The Leapfrog Group’s Responses to Plaintiffs’ Requests for Production* at 7 (“Leapfrog is not itself in possession of data showing Plaintiffs’ performance on the ‘imputed metrics’ considered by the methodology.”). Of course, Plaintiff in fact has a comprehensive and thorough handwashing policy. And had Plaintiff merely filled out TLG’s survey, it would have received a full two letter grades higher on TLG’s score. *Declaration of Sean Nicholson* (ECF No. 22) (“Nicholson Decl.”), Ex. 3.

Based on the foregoing, and as more fully set forth in the Complaint, TLG engages in deceptive trade practices by, among other things, deceiving consumers about its grading methods by implying that Plaintiff has failed on certain measures that, in truth, TLG has no data or other basis to evaluate; deceiving consumers by telling them the Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the Hospital Survey; deceiving consumers when it represents that it does not grade hospitals if it lacks sufficient data, when, in truth, it does grade hospitals by “imputing” or making up a grade for the Deceptive Score Categories; hiding the truth about its “imputation model” from consumers by burying it in fine print on a separate website; punishing non-participating hospitals by “imputing” scores, which artificially deflate a hospital’s Safety Grade; and favoring participating hospitals. Additional factual bases for the Plaintiff’s claims are presented in the Complaint.

Interrogatory No. 4: Describe the scoring or grading methodology You believe Leapfrog should have used to assess Your hospital's patient safety performance and explain why that method would yield a different result.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's provision of an alternative scoring or grading methodology has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it calls for speculation. Plaintiff also objects to this Interrogatory as premature to the extent it seeks information that may be the subject of expert testimony. Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 5: State whether You submitted any data, corrections, or appeals to Leapfrog regarding the Safety Grade Your hospital received, and for each such submission, identify the date of the submission, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the submission, and the content of the submission.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Whether or not Plaintiff submitted "any data, corrections, or appeals to Leapfrog regarding the Safety Grade" Plaintiff hospital received has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Subject to the foregoing objections, correspondence was sent on Plaintiff's behalf prior to the commencement of this case demanding that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, but at every turn TLG refused.

Interrogatory No. 6: State whether You provided any comment or input in any form during Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade methodology that was proposed for the calculation of Hospital Safety Grades (including but not limited to for the Fall 2024 methodology update). If yes, please identify the date of the comment, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the comment and the content of the comment. If no, please state the reason why You chose not to comment.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Whether or not Plaintiff submitted "any comment or input" in response to TLG's request for public comments has nothing to do the with claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Subject to the foregoing objections, Plaintiff did not provide comments in response to Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade scoring system because Plaintiff generally does not respond to requests for public comment from private entities like TLG.

Interrogatory No. 7: Describe all actions Your hospital took in response to (or in deciding not to respond to) its Safety Grade or the Hospital Survey, including internal meetings, media statements, or public relations efforts. In so answering, state the date of the action, the individuals involved in the action and the content of the action.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all actions” Plaintiffs may have taken in response to TLG’s Safety Grades. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, No. 14-81476-CIV, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure: Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Subject to the foregoing objections, Plaintiff devoted substantial time and resources that could have otherwise been spent continuing to improve patient care to respond to the significant harm and disruption caused by TLG’s deceptive and unfair Safety Grade. Plaintiff’s response included meeting internally with Plaintiff’s leadership team, medical executive committee, and governing board, corresponding with TLG to demand that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, and devoting substantial time and resources to facilitate the preparation and prosecution of this Action.

Interrogatory No. 8: Identify any and all persons, whether internal or external (e.g., patients, vendors, affiliates, parents, agents, partners, media) with whom You communicated in any way with respect to the Safety Grade or the Hospital Survey. In so answering, state the date of the communication, the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.) and the content of the communication.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of “any and all persons, whether internal or external.” Plaintiff will disclose the categories of individuals with whom Plaintiff communicated about the Safety Grade or Hospital Survey during the Relevant Time

Period. Plaintiff also object to this Interrogatory to the extent it seeks protected health information that Health Insurance Portability and Accountability Act (“HIPAA”), among other statutes and regulations, bars Plaintiff from disclosing. Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Subject to the foregoing objections, Plaintiff communicated with the following categories of people regarding the Safety Grade or the Hospital Survey: Plaintiff’s governing board, its medical executive committee, department directors, and physicians and nurses when asked about the Safety Grade or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grade for Plaintiff’s hospital. Most of these communications occurred during regularly scheduled meetings, during which attendees were told about TLG’s release of the deceptive and unfair Safety Grade, that Plaintiff does not participate in the Hospital Survey because it is unreliable and not an accurate reflection of hospital quality and safety or patient outcomes, and that the Safety Grade, which was not based on any information provided by Plaintiff, was misleading. The Palm Beach Health Network also issued a press release and since then, has engaged in marketing efforts to counteract TLG’s deceptive scores on behalf of Plaintiff.

Interrogatory No. 9: Describe all instances in which a third party declined to contract with, refer patients to, or work with Your hospital, where Leapfrog’s grade was cited or discussed. In so identifying list the name of the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.), the date of the communication and the content of the communication.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it requires Plaintiff to “[d]escribe all instances” in which a third party took an action in response to TLG’s deceptive grade.

Subject to the foregoing objection, Plaintiff is not aware of any responsive instances.

Interrogatory No. 10: Describe with specificity the basis for each and every category of damage You claim You incurred as a result of the Leapfrog Safety Grade. In so identifying, list each category of damages and the dollar value of each category of damage You claim.

Answer: Plaintiff objects to this Interrogatory as premature to the extent it seeks information that may be the subject of expert testimony. Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Interrogatory No. 11: Identify all adverse patient events which occurred at Your hospital, including any citations received from regulatory agencies, accrediting agencies, and third party payors such as The Joint Commission, CMS, state health departments, etc. during the period covered by each Leapfrog Safety Grade publication of which You complain (i.e., Fall 2024, Fall 2025, etc.), as well as any complaints received from patients regarding the same.

Answer: Plaintiff objects to this Interrogatory because it is overly broad, unduly burdensome, seeks discovery of information that is irrelevant to the claims and defenses in this Action, seeks information that is beyond the scope of Leapfrog’s Hospital Survey, and is not reasonably calculated to lead to the discovery of admissible evidence. TLG does not include “all adverse patient events,” “citations received from” agencies or payors, or “complaints received from patients” in TLG’s determination of its Hospital Safety Grades or request such information in the Hospital Survey, so any such information is irrelevant to whether TLG’s actions constitute unfair or deceptive trade practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff also objects to this Interrogatory to the extent it seeks protected health

information that HIPAA, among other statutes and regulations, bars Plaintiff from disclosing. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 12: *Blank.*

Interrogatory No. 13: Describe in detail how Your hospital compares nationally on on [sic] any other ranking of patient safety performance, including but not limited to Vizient, Inc., Premier, Inc., HealthTrust Purchasing Group, The Joint Commission, HealthGrades, US News, Newsweek, Statista, Definitive Healthcare, or any other quality benchmarking entity including benchmarking on patient safety including on adverse events and on healthcare-acquired infections.

Answer: Plaintiff objects to this Interrogatory's request that Plaintiff "[d]escribe in detail how Your hospital compares nationally" based on undisclosed "benchmarking" as vague and confusing. To the extent this Interrogatory seeks the top-line rankings of the identified organizations, Plaintiff objects to this Interrogatory because such information is publicly and equally available to TLG. To the extent this Interrogatory asks Plaintiff to compare itself to the named and unnamed entities, that request is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Other organizations' rankings have nothing to do with the claims and defenses in this case related to the Deceptive Score Categories or TLG's decision to use deceptive business practices.

Subject to the foregoing objections, Plaintiff has received numerous awards and accolades, including many that are especially relevant to patient care for the over-65 patient community that represent over 50% of the patients Plaintiff serves. Plaintiff is accredited by the Joint Commission, the nation's largest hospital accreditor that evaluates hospitals' quality performance standards through an objective evaluation process. Plaintiff has also been accredited by Joint Commission

as an Advanced Primary Stroke Center—a certification designed for hospitals providing the critical elements to achieve long-term success in improving stroke outcomes—and Total Joint Hip/Knee Certification—which signifies Plaintiff’s services have delivered evidence-based proof of clinical quality sought by patients and payers alike. Additionally, it has a lab accreditation from the College of American Pathologists—requirement to perform testing on specimens from human beings—and was selected as a certified program with the American Association of Cardiovascular and Pulmonary Rehabilitation (AACVPR)—the only peer-reviewed accreditation process designed to review individual facilities for adherence to standards and guidelines developed and published by the AACVPR. These accreditations and certifications are only awarded after in-person visits to Plaintiff where Plaintiff’s health care professionals are interviewed and patient care is reviewed first hand. Plaintiff is subject to regular periodic in-person reviews, audits, surveys, and assessments of the facility.

Plaintiff has also received numerous awards that exemplify its quality such as Blue Distinction Center+ Designation for Quality and Cost-Efficiency in Knee and Hip Replacement Surgeries by BlueCross BlueShield, the Joint Commission’s Gold Seal of Approval for Hip and Knee Replacement, an Aetna Institute of Quality Orthopedic Facility for Total Joint Replacement and Spine Surgery, Get with the Guidelines Gold Plus Stroke Recognition Award from the American Heart Association for 10 years straight, and the Gold Plus Diabetes Recognition Award for the last three years, among several other awards.

In 2025, the medical ranking organization Healthgrades gave Plaintiff the award for “America’s 100 Best for Spine and Outpatient Orthopedic Excellence Award.” To assess and evaluate hospitals, Healthgrades relies on data from Medicare medical claims records and states’ data on Medicare and commercially insured patient outcomes to determine patients’ actual clinical

outcomes when visiting a given hospital. Healthgrades also assigned Plaintiff five-star awards for various specialties, including:

a. Cardiac Care

- i. Five-Star Recipient for Valve Surgery (2023, 2025)
- ii. Five-Star Recipient for Treatment of Heart Failure for three years in a row (2023-2025)
- iii. Five-Star Recipient for Carotid Procedures for three years in a row (2023-2025)
- iv. Recipient of the Healthgrades 2023 Cardiac Surgery Excellence Award
- v. Top 10% in the Nation for Cardiac Surgery (2023)

b. Critical Care

- i. Five-Star Recipient for Respiratory Failure for two years in a row (2024-2025)

c. Gastrointestinal

- i. Five-Star Recipient for Colorectal Surgeries (2025)
- ii. Five-Star Recipient for Treatment of GI Bleed (2024)

d. Neurosurgery

- i. Five-Star Recipient for Treatment of Stroke (2025)

e. Pulmonary

- i. Five-Star Recipient for Treatment of Pneumonia for three years in a row (2023-2025)
- ii. Recipient of the Healthgrades Pulmonary Care Excellence Award (2024, 2025)

- iii. Top 10% in the Nation for Pulmonary Care (2024, 2025)
- iv. Five Star Recipient for Treatment of Chronic Obstructive Pulmonary Disease (2024).

In addition, Plaintiff will produce and identify documents reflecting some of Plaintiff's rankings from other organizations.

Interrogatory No. 14: Describe any steps taken by Your hospital to improve any and all of the patient safety measures considered by Leapfrog's Hospital Safety Grade (as set forth on Leapfrog's published scoring methodology documents; see ECF No. 21-3 at 6-10; ECF No. 21-43 at 6-9), before and after each Safety Grade publication of which You complain.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of Plaintiff's improvements to "any and all" patient safety measures considered by Leapfrog's Hospital Safety Grade. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information on metrics other than TLG's Deceptive Score Categories and to the extent it seeks information that is beyond the scope of Leapfrog's Hospital Survey. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 15: State whether You are aware of specific patients who have relied on the Leapfrog Safety Grade in declining to receive healthcare services at Your hospital. In so answering, identify the individual patient that declined to receive services, the date of such declination, the type of service the patient declined to receive, the medium for the communication from the patient (i.e. telephone, video conference, email, letter, etc.), the content of the communication, and the reason given for the stated decision.

Answer: Plaintiff objects to this Interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only

produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Subject to the foregoing objection, Plaintiff has received reports that patients considered or decided not to use Plaintiff's facility because of TLG's misleading grades.

Interrogatory No. 16: Describe any effort Your hospital has made to influence public perception of Your hospital's performance on patient safety following the publication of the Leapfrog Safety Grade.

Answer: Plaintiff objects to this Interrogatory as vague and ambiguous because it does not specify which Leapfrog Safety Grade is at issue. Plaintiff will construe this Interrogatory to reference TLG's deceptive Safety Grades beginning in Fall 2024. Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks "any effort" Plaintiff "has made to influence public perception" after the release of TLG's deceptive and unfair Safety Grades because there have been many such "efforts" and those "efforts" are ongoing given the significant harm caused by TLG's deceptive and unfair business practices.

Subject to the foregoing objections, Plaintiff continues to influence public perception by, among other things, delivering the highest quality care to the community it serves, which, as discussed in response to Interrogatory 13, has led to numerous awards, accreditations, and accolades. In addition, several public statements disputing the misleading nature of the Safety Grade have been made on Plaintiff's behalf.

Interrogatory No. 17: Describe the due diligence Your hospital undertakes to ensure the accuracy of its own publicly reported safety data (including but not limited to data submitted to CMS, the CDC, and third party organizations).

Answer: Plaintiff objects to this Interrogatory as vague and ambiguous due to its use of the undefined term “due diligence.” Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Any “due diligence” Plaintiff performs when reporting to *third parties* has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices, especially when TLG does nothing to ensure the accuracy of information that hospitals that participate in its survey self-report. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 18: Describe in detail how You communicate to the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System the outcome of any and all healthcare safety ratings, evaluative publications, studies, or performance analyses that Your Hospital receives.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff’s communication, if any, with the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System, all non-parties to this litigation, has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 19: State whether the compensation of Your Chief Executive Officer or any other executive-level leadership officers is tied to or related in any way to Your hospital’s performance on patient safety, union worker contracts or Your hospital’s ratings by third party ratings organizations’ ratings publications (including but not limited to the Leapfrog Hospital Safety Grade).

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the

discovery of admissible evidence. Plaintiff's method of compensating its Chief Executive Officer and other executive-level leadership has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 20: Identify all hospitals, medical centers, or healthcare systems that you consider to be your direct competitors within the relevant geographic market during the time period covered by the Complaint and describe in detail the criteria you use to determine whether another hospital or healthcare provider is a competitor.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. The identity of Plaintiff's competitors and "the criteria" used to determine whether a hospital or provide is a competitor has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff also objects to this Interrogatory to the extent it seeks confidential, proprietary information, and commercially sensitive information related to Plaintiff's scoring system and "criteria" used to determine whether a hospital or provide is a competitor.

Subject to the foregoing objections and on condition that this response is considered "Confidential" under the forthcoming agreed confidentiality order, Jupiter Medical Center is Plaintiff's competitor. Plaintiff considers this hospital a competitor because of its proximity to Plaintiff, its competing services lines, and that patients within Plaintiff's service area go to this hospital for medical care.

Interrogatory No. 21: State and describe the results of any market analysis, competitive analysis, or consumer perception surveys you have conducted or commissioned regarding your competitors

from 2020 to present, and identify the individuals or entities that prepared or participated in such analyses.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. The results of any market analysis, competitive analysis, or consumer perception surveys and the identity of those who prepared or participated in such analyses has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 22: Identify with specificity any comments or concerns raised by any third party payor, bank or lender, or investor related to Your hospital's reputation and/or public perception on issues in any way involving patient safety or satisfaction.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks "comments and concerns" from third parties related generally to Plaintiff's reputation that has nothing to do with the specific and significant reputational harm caused by TLG's misleading grades.

Subject to the foregoing objections, Plaintiff will produce and identify non-privileged documents (if any) related to the significant reputational harm caused by TLG's deceptive and unfair Safety Grades that provide sufficient detail to respond to this Interrogatory.

Interrogatory No. 23: Identify and describe any complaints, concerns, or comments from patients, community members, or referring physicians that relate to the hospital's reputation or comparisons to other hospitals in the region.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks “comments and concerns” from patients, community members, or referring physicians that have nothing to do with the significant reputational harm caused by TLG’s misleading grades. Plaintiff also objects to this interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Subject to the foregoing objections, Plaintiff has received reports that patients and physicians considered or decided not to use Plaintiff’s facility because of TLG’s misleading grades.

Interrogatory No. 24: List with specific detail each and every concern, complaint or comment made by any union, collective bargaining unit or employee association in any way related to patient safety at Your hospital.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks “each and every concern, complaint or comment ” from third parties that have nothing to do with the significant reputational harm caused by TLG’s misleading grades. Plaintiff also objects to this Interrogatory to the extent it seeks health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Subject to the foregoing objections, Plaintiff is unaware of any concern, complaint or comment regarding TLG deceptive scores made by the union at Plaintiff’s hospital.

Interrogatory No. 25: Identify any and all criticism You have received since 2020 from Tenet Healthcare Corporation and/or from any individual executive of Tenet Healthcare Corporation regarding Your hospital's performance in any way.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Any so-called "criticism" has nothing to do with the claims and defenses related to TLG's decision to use deceptive business practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Dated: July 25, 2025

Respectfully submitted,

By: /s/ Lee R. Crain

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*Attorneys for Palm Beach Gardens Medical
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CERTIFICATE OF SERVICE

This is to certify that true and correct copies of Plaintiff's Responses and Objections to Defendant The Leapfrog Group's First Sets of Interrogatories to Plaintiff have been served on counsel for The Leapfrog Group by electronic transmission.

/s/ Lee R. Crain
Lee R. Crain

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.

**AFFIDAVIT OF ERIK CAZARES IN SUPPORT OF
PLAINTIFF PALM BEACH GARDENS MEDICAL CENTER'S
RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP'S FIRST SET OF
INTERROGATORIES TO PALM BEACH GARDENS MEDICAL CENTER**

I, Erik Cazares, declare as follows:

4. I am over 21 years of age and competent to give this testimony.

5. I am the Chief Executive Officer of Palm Beach Gardens Community Hospital, Inc. d/b/a Palm Beach Gardens Medical Center ("Plaintiff"). I am the corporate representative of Plaintiff for the purpose of answering Defendant The Leapfrog Group's First Set of Interrogatories to Palm Beach Gardens Medical Center. I have read the foregoing interrogatories and the answers to those interrogatories, which are true according to the best of my knowledge, information, and belief.

6. I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 25, 2025.



Erik Cazares

EXHIBIT 3D

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.

**PLAINTIFF ST. MARY'S MEDICAL CENTER, INC.'S
RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP'S FIRST SET OF
INTERROGATORIES TO ST. MARY'S MEDICAL CENTER**

Pursuant to Federal Rules of Civil Procedure 26 and 33 and the *Pretrial Scheduling Order and Order Referring Case to Mediation* (ECF No. 36) (the "Pretrial Scheduling Order"), Plaintiff St. Mary's Medical Center, Inc. ("Plaintiff"), by and through its undersigned counsel, hereby submits its responses and objections ("Responses"), to Defendant The Leapfrog Group's ("TLG") First Set of Interrogatories, dated July 11, 2025 (the "Interrogatories" and each numbered interrogatory, an "Interrogatory") in the above-captioned action (the "Action").

Plaintiff's Responses to the Interrogatories are made solely for purposes of this Action and to the best of Plaintiff's present knowledge, information, and belief regarding the matters about which inquiry have been made. Discovery is ongoing, and Plaintiff reserves the right to amend, supplement, clarify, or further explain its Responses at any time prior to the trial in

this Action. Plaintiff further reserves the right to raise any additional objections deemed necessary or appropriate in light of any further review.

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. Plaintiff objects to the definition of terms “Plaintiffs” and “Plaintiff Hospitals” as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it seeks to require Plaintiffs to respond on behalf of entities or individuals other than themselves.

2. Plaintiff objects to the definition of the terms “St. Mary’s,” “St. Mary’s Medical Center,” “Plaintiff,” “You,” and “Your” to the extent each term seeks to require Plaintiff to respond on behalf of entities or individuals other than themselves, including on behalf of agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

3. Plaintiff objects to the definition of the terms “Tenet Healthcare” and “Tenet” to the extent it seeks to require Plaintiff to respond on behalf of entities or individuals other than itself, including on behalf of Tenet, Tenet’s agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

4. Plaintiffs object to the definition of “identify, when referring to a person,” as overbroad and unduly burdensome to the extent it calls for the “address” and “present or last-known employer” of identified individuals. Such information is overbroad and beyond the scope of permissible discovery.

5. Plaintiff objects to the instruction that the relevant time period for the Interrogatories begins on January 1, 2020. Plaintiff will apply to each Interrogatory the time period

of November 1, 2023 to present (the “Relevant Time Period”). Any response to an Interrogatory that provides information that falls outside of the Relevant Time Period should not be construed as an admission that the Relevant Time Period begins prior to January 1, 2023.

SPECIFIC RESPONSES TO INTERROGATORIES

Interrogatory No. 1: State the full name, address, job title or position, and hospital or employer affiliation of all individuals that assisted with responding to these interrogatories.

Answer: The following individuals assisted with responding to these Interrogatories.

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Cynthia McCauley	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Chief Executive Officer	St. Mary’s Medical Center
Regina West	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Market Quality Director	Palm Beach Health Network and St. Mary’s Medical Center

Interrogatory No. 2: Identify every individual not identified in Your Rule 26(a) initial disclosures with knowledge of facts pertaining to the allegations in Your Complaint in this Lawsuit (and any subsequent amendments) and/or whom You believe may have discoverable knowledge, information or data regarding this matter, including those who You expect to call as a fact or opinion witness at any hearing in this proceeding or whose testimony (by affidavit, deposition or testimony) You intended to submit in connection with this proceeding, and the substance of his/her testimony or affidavit, and, with respect to each person identified, provide:

- A. full name,
- B. address,
- C. telephone number,
- D. job title or position,
- E. hospital or employer affiliation,
- F. and describe in detail the facts possessed by each such person.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of “every individual...with

knowledge” or who “may have discoverable knowledge, information or data regarding this matter.” Plaintiff will not provide more than the identity of individuals most likely to have knowledge regarding this matter. Plaintiff further objects to this Interrogatory as premature because it requests disclosure of Plaintiff’s witnesses for hearings and the substance of witness testimony before such disclosure is required under applicable law or the Pretrial Scheduling Order. Plaintiff will submit its trial witness list on October 2, 2025, per the Pretrial Scheduling Order, and disclose any other witnesses and witness testimony as further ordered by the Court or otherwise required by applicable law. Plaintiff also objects to this Interrogatory’s request for the identity of “opinion witness[es]” as vague, since witnesses are either “fact” or “expert” witnesses. Plaintiff will interpret “opinion witness” to mean “expert witness.” Plaintiff objects to this Interrogatory as premature to the extent it seeks disclosure of Plaintiff’s expert witness(es). Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Subject to the foregoing objection, Plaintiff will amend its Rule 26(a)(1) Initial Disclosures to identify additional individuals who may have knowledge of facts pertaining to the allegations in the Complaint.

Interrogatory No. 3: Describe in detail all factual bases for Your contention that Leapfrog’s published Safety Grade for Your hospital was false, inaccurate, misleading, deceptive, or unfair. In so answering, identify with particularity each measure, data point, or metric that You contend was inaccurately reported, calculated, or misrepresented by Leapfrog in calculating the Safety Grade for Your hospital.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all factual bases” for Plaintiff’s contention. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure:

Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory as premature to the extent it requests that Plaintiff “[d]escribe in detail all factual bases” to support its contention. *In re Reliance Fin. & Inv. Grp., Inc.*, 2006 WL 8435541, at *4 (S.D. Fla. Feb. 14, 2006) (Contention interrogatories “are more appropriately used after a substantial amount of discovery has been conducted--typically, at the end of the discovery period.”). Plaintiff also objects to this Interrogatory to the extent it attempts to limit or mischaracterize Plaintiff’s claim as just challenging the false, inaccurate, misleading, deceptive, or unfair nature of TLG’s Safety Grade. As the Court explained in its order denying TLG’s motion to dismiss, the core of the Complaint is “a challenge to Defendant’s representations about its methodology, which they claim mislead consumers by failing to distinguish between absent data and damning data, and professing that grades are not influenced by a hospital’s lack of survey participation.” *Order on Motion to Dismiss* 6 (ECF No. 41). Plaintiff also challenges the provably false facts and deceptive scoring system underlying these grades, which TLG admits it relies on to arrive at its deceptive Safety Grades.

Subject to the foregoing objections and as more fully stated in the *Complaint and Demand for Jury Trial* (ECF No. 1) (“Complaint”), TLG has engaged in deceptive and unfair business practices and misrepresentations when issuing the Safety Grade for Plaintiff’s hospital as part of TLG’s annual “Hospital Survey.” TLG posts these Safety Grades online at hospitalsafetygrade.org.

To arrive at these Safety Grades, TLG uses CMS data, survey responses from participating hospitals, and other supplemental data sources. For participating hospitals, TLG uses the hospitals’ self-reported responses to the Hospital Survey for 12 of the 22 measures. For non-participating hospitals, TLG uses other sources for those 12 measures. For the remaining four measures—Computerized Physician Order Entry, Bar Code Medication Administration, ICU Physician Staffing, and Hand Hygiene Score (the “Deceptive Score Categories”)—TLG devised and uses a

so-called “imputation model.” Prior to Fall 2024, TLG’s imputation model assigned non-participating hospitals a score based on the average score applicable to a similarly situated hospital. Beginning in Fall 2024, TLG modified its imputation model. TLG now assigns the lowest possible score to non-participating hospitals, which has the effect of punishing non-participating hospitals and artificially deflating their Safety Grades. TLG has even admitted the changes in Fall 2024 were designed to penalize non-participating hospitals. TLG also misleads consumers about how it grades hospitals, stating “[t]he Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the [TLG] Hospital Survey.” *Declaration of Lee Crain* (ECF No. 21) (“Crain Decl.”), Ex. 1 at 4 (“Frequently Asked Questions About the Leapfrog Hospital Safety Grade”).

As TLG explains, “not all hospitals have enough data publicly available to be eligible for a grade.” Crain Decl. Ex. 1 at 5. “As per the National Expert Panel guidance, [TLG] has requirements for the minimum amount of data [it] need[s] to issue an accurate grade.” Crain Decl. Ex. 1 at 5. According to TLG, “[h]ospitals missing more than six process measures” are “not graded.” Crain Decl. Ex. 2 at 6. Non-participating hospitals should fall easily into that “not graded” bucket, because their decision not to participate in TLG’s survey necessarily means TLG is missing seven process measures that rely on voluntary submission of hospital data.¹

TLG then deceptively conceals how it makes up grades for the four “imputation” measures and even suggests on its website that TLG *does* have data sufficient to score TLG on those four measures. By way of example, TLG acknowledges that Plaintiff “Declined to Report” information in response to questions about “Staff work[ing] together,” but then tells consumers—as if it were

¹ Those seven include CPOE, BCMA, IPS, Safe Practice 1: Culture of Leadership Structures and Systems; Safe Practice 2: Culture Measurement, Feedback & Intervention; Total Nursing Care Hours per Patient Day; and Hand Hygiene.

a fact—that Plaintiff is “Worse Than Average” on “Handwashing,” “Communication,” “medication administration,” and the like—even though TLG has no basis whatsoever to adopt those conclusions. Crain Decl. Ex. 31 at 2. TLG itself says handwashing is among the “most important” measures in its survey, Crain Decl. Ex. 15 at 4, yet it deceptively conceals that it has no data with which to grade the Plaintiff hospital on that measure. *Defendant The Leapfrog Group’s Responses to Plaintiffs’ Requests for Production* at 7 (“Leapfrog is not itself in possession of data showing Plaintiffs’ performance on the ‘imputed metrics’ considered by the methodology.”). Of course, Plaintiff in fact has a comprehensive and thorough handwashing policy. And had Plaintiff merely filled out TLG’s survey, it would have received a full two letter grades higher on TLG’s score. *Declaration of Sean Nicholson* (ECF No. 22) (“Nicholson Decl.”), Ex. 3.

Based on the foregoing, and as more fully set forth in the Complaint, TLG engages in deceptive trade practices by, among other things, deceiving consumers about its grading methods by implying that Plaintiff has failed on certain measures that, in truth, TLG has no data or other basis to evaluate; deceiving consumers by telling them the Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the Hospital Survey; deceiving consumers when it represents that it does not grade hospitals if it lacks sufficient data, when, in truth, it does grade hospitals by “imputing” or making up a grade for the Deceptive Score Categories; hiding the truth about its “imputation model” from consumers by burying it in fine print on a separate website; punishing non-participating hospitals by “imputing” scores, which artificially deflate a hospital’s Safety Grade; and favoring participating hospitals. Additional factual bases for the Plaintiff’s claims are presented in the Complaint.

Interrogatory No. 4: Describe the scoring or grading methodology You believe Leapfrog should have used to assess Your hospital's patient safety performance and explain why that method would yield a different result.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's provision of an alternative scoring or grading methodology has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it calls for speculation. Plaintiff also objects to this Interrogatory as premature to the extent it seeks information that may be the subject of expert testimony. Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 5: State whether You submitted any data, corrections, or appeals to Leapfrog regarding the Safety Grade Your hospital received, and for each such submission, identify the date of the submission, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the submission, and the content of the submission.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Whether or not Plaintiff submitted "any data, corrections, or appeals to Leapfrog regarding the Safety Grade" Plaintiff hospital received has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Subject to the foregoing objections, correspondence was sent on Plaintiff's behalf prior to the commencement of this case demanding that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, but at every turn TLG refused.

Interrogatory No. 6: State whether You provided any comment or input in any form during Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade methodology that was proposed for the calculation of Hospital Safety Grades (including but not limited to for the Fall 2024 methodology update). If yes, please identify the date of the comment, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the comment and the content of the comment. If no, please state the reason why You chose not to comment.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Whether or not Plaintiff submitted "any comment or input" in response to TLG's request for public comments has nothing to do the with claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Subject to the foregoing objections, Plaintiff did not provide comments in response to Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade scoring system because Plaintiff generally does not respond to requests for public comment from private entities like TLG.

Interrogatory No. 7: Describe all actions Your hospital took in response to (or in deciding not to respond to) its Safety Grade or the Hospital Survey, including internal meetings, media statements, or public relations efforts. In so answering, state the date of the action, the individuals involved in the action and the content of the action.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all actions” Plaintiffs may have taken in response to TLG’s Safety Grades. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, No. 14-81476-CIV, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure: Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Subject to the foregoing objections, Plaintiff devoted substantial time and resources that could have otherwise been spent continuing to improve patient care to respond to the significant harm and disruption caused by TLG’s deceptive and unfair Safety Grade. Plaintiff’s response included meeting internally with Plaintiff’s leadership team, medical executive committee, and governing board, corresponding with TLG to demand that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, and devoting substantial time and resources to facilitate the preparation and prosecution of this Action.

Interrogatory No. 8: Identify any and all persons, whether internal or external (e.g., patients, vendors, affiliates, parents, agents, partners, media) with whom You communicated in any way with respect to the Safety Grade or the Hospital Survey. In so answering, state the date of the communication, the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.) and the content of the communication.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of “any and all persons, whether internal or external.” Plaintiff will disclose the categories of individuals with whom Plaintiff communicated about the Safety Grade or Hospital Survey during the Relevant Time

Period. Plaintiff also object to this Interrogatory to the extent it seeks protected health information that Health Insurance Portability and Accountability Act (“HIPAA”), among other statutes and regulations, bars Plaintiff from disclosing. Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Subject to the foregoing objections, Plaintiff communicated with the following categories of people regarding the Safety Grade or the Hospital Survey: Plaintiff’s governing board, its medical executive committee, department directors, and physicians and nurses when asked about the Safety Grade or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grade for Plaintiff’s hospital. Most of these communications occurred during regularly scheduled meetings, during which attendees were told about TLG’s release of the deceptive and unfair Safety Grade, that Plaintiff does not participate in the Hospital Survey because it is unreliable and not an accurate reflection of hospital quality and safety or patient outcomes, and that the Safety Grade, which was not based on any information provided by Plaintiff, was misleading. The Palm Beach Health Network also issued a press release and since then, has engaged in marketing efforts to counteract TLG’s deceptive scores on behalf of Plaintiff.

Interrogatory No. 9: Describe all instances in which a third party declined to contract with, refer patients to, or work with Your hospital, where Leapfrog’s grade was cited or discussed. In so identifying list the name of the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.), the date of the communication and the content of the communication.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it requires Plaintiff to “[d]escribe all instances” in which a third party took an action in response to TLG’s deceptive grade.

Subject to the foregoing objection, Plaintiff is not aware of any responsive instances.

Interrogatory No. 10: Describe with specificity the basis for each and every category of damage You claim You incurred as a result of the Leapfrog Safety Grade. In so identifying, list each category of damages and the dollar value of each category of damage You claim.

Answer: Plaintiff objects to this Interrogatory as premature to the extent it seeks information that may be the subject of expert testimony. Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Interrogatory No. 11: Identify all adverse patient events which occurred at Your hospital, including any citations received from regulatory agencies, accrediting agencies, and third party payors such as The Joint Commission, CMS, state health departments, etc. during the period covered by each Leapfrog Safety Grade publication of which You complain (i.e., Fall 2024, Fall 2025, etc.), as well as any complaints received from patients regarding the same.

Answer: Plaintiff objects to this Interrogatory because it is overly broad, unduly burdensome, seeks discovery of information that is irrelevant to the claims and defenses in this Action, seeks information that is beyond the scope of Leapfrog’s Hospital Survey, and is not reasonably calculated to lead to the discovery of admissible evidence. TLG does not include “all adverse patient events,” “citations received from” agencies or payors, or “complaints received from patients” in TLG’s determination of its Hospital Safety Grades or request such information in the Hospital Survey, so any such information is irrelevant to whether TLG’s actions constitute unfair or deceptive trade practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff also objects to this Interrogatory to the extent it seeks protected health

information that HIPAA, among other statutes and regulations, bars Plaintiff from disclosing. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 12: Describe in detail how Your hospital compares nationally on on [sic] any other ranking of patient safety performance, including but not limited to Vizient, Inc., Premier, Inc., HealthTrust Purchasing Group, The Joint Commission, HealthGrades, US News, Newsweek, Statista, Definitive Healthcare, or any other quality benchmarking entity including benchmarking on patient safety including on adverse events and on healthcare-acquired infections.

Answer: Plaintiff objects to this Interrogatory's request that Plaintiff "[d]escribe in detail how Your hospital compares nationally" based on undisclosed "benchmarking" as vague and confusing. To the extent this Interrogatory seeks the top-line rankings of the identified organizations, Plaintiff objects to this Interrogatory because such information is publicly and equally available to TLG. To the extent this Interrogatory asks Plaintiff to compare itself to the named and unnamed entities, that request is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Other organizations' rankings have nothing to do with the claims and defenses in this case related to the Deceptive Score Categories or TLG's decision to use deceptive business practices.

Subject to the foregoing objections, Plaintiff has received numerous awards and accolades, including many that are directly relevant to patient care for both the low-income underserved community in which it resides and the greater central Florida east coast.

Plaintiff has several accreditations that demonstrate the high-quality of care it provides to pregnant women and children in the community. For example, it is an accredited acute care hospital that is a Level I adult and pediatric Trauma Center. A Level I Trauma Center is a healthcare facility that is central to the trauma system and capable of providing the highest level of care for

every aspect of injury for both adults and children. Plaintiff is also a Level III NICU, meaning it provides lifesaving care for babies born before 32 weeks' gestation and / or weighing less than 1,500 grams (approximately 3.3 pounds) or babies with specific medical conditions that require surgery or specialized pediatric care. Additionally, Plaintiff is one of only 11 designated hospitals by the Florida Department of Health as a Regional Perinatal Intensive Care Center (RPICC) that provides obstetrical services to women who have a high-risk pregnancy and care for newborns with special health needs, such as critical illness or low birth weight. Plaintiff is also certified by the American College of Surgeons for the Verified Pediatric Surgery Program, which recognizes hospitals that properly address the surgical care of infants and children.

Plaintiff is also a Commission on Accreditation of Rehabilitation Facilities ("CARF") accredited facility for its stroke, brain injury and amputation specialty services. Achieving CARF accreditation means that Plaintiff's hospital meets CARF's standards and has demonstrated a commitment to being among the best available to patients. Plaintiff is also a Certified Comprehensive Stroke Center, which means Plaintiff is dedicated to raising the bar for evaluating and evolving the care of patients at every part of the stroke care continuum. Additionally, Plaintiff has achieved a Det Norske Veritas (DNV) for Comprehensive Stroke Certification. A DNV Comprehensive Stroke Certification demonstrates that Plaintiff provides the highest quality of care and offers evidence-based treatments with cutting-edge research protocols for stroke patients. In order to be accredited, Plaintiff had to undergo an on-site visit on a triennial basis, in which a trained DNV site visit reviewer visits the facility and reviews its required stroke program activity documentation to ensure compliance with the standards. The entities that award and assign these accreditations and certifications visit the healthcare facility and perform regular periodic in-person reviews, audits, surveys and assessments of the facility.

Additionally, Plaintiff is accredited by the Joint Commission, the nation's largest hospital accreditor that evaluates hospitals' quality performance standards through an objective evaluation process. Plaintiff has been accredited by the Joint Commission for specialization certifications for Spine Surgery and Total Joint Replacement for Hip and Knee—a certification designed for hospitals providing the critical elements to achieve long-term success in improving critical medical outcomes—which signifies Plaintiff's services have delivered evidence-based proof of clinical quality sought by patients and payers alike.

These accreditations and certifications are particularly important given Plaintiff's patient population. With its accreditation and specialties, Plaintiff provides patients care they are not able to receive at other facilities. Plaintiff sees more transfers to its facility from nearby hospitals who are unable to provide patients with the care they need than any other Palm Beach County hospital. Also, due to its location in a low-income community, Plaintiff treats a significant number of high-risk pregnancies in which infant mortality is a serious risk and heartbreaking reality.

Plaintiff has also received numerous awards that exemplify its quality. Plaintiff received multiple Get with the Guidelines awards, including Stroke Gold Plus Award 2024 (14th Consecutive Year); Stroke Elite Plus Honor Roll; Stroke Advance Therapy Honor Roll; and Type 2 Diabetes Honor Roll. The Get with the Guidelines Stroke program is designed to improve stroke care by promoting consistent adherence to the latest scientific treatment guidelines.

Additionally, Plaintiff has been recognized by BlueCross BlueShield with a Blue Distinction Centers for Knee, Hip Replacements, Spine Surgery and Maternity Care designation, as part of the Blue Distinction Specialty Care program. The Blue Distinction Specialty Care is a national designation program that recognizes health providers that demonstrate expertise in quality and affordable health care to meet consumers' specialty care needs.

Plaintiff has also received numerous awards that recognize the high-quality care it provides to pregnant women and children. For example, it recently received the Florida Department of Health and Florida Agency for Health Care Administration Excellence for Maternal Care Award, which highlights hospitals that surpass Florida Department of Health's goal of reducing the rate of C-sections among first-time mothers with low-risk pregnancies. Similarly, the Florida Hospital Association also recently awarded Plaintiff the Excellence in Maternity Care designation, which is awarded to a hospital that demonstrates exceptional dedication to maternal health care.

Additionally, the Palm Beach Post has awarded Plaintiff with Community Choice Awards for Best Hospital, Best Orthopedic/Sports Medicine 2024 and Best Maternity and Childbirth Center 2024 & 2025. The Palm Beach County Community Choice Awards celebrate the best business and organizations in the area, with people in the community voting on these designations.

The medical rankings organization Healthgrades awarded Plaintiff numerous accolades. To assess and evaluate hospitals, Healthgrades relies on data from Medicare medical claims records and states' data on Medicare and commercially insured patient outcomes to determine patients' actual clinical outcomes when visiting a given hospital. Plaintiff has received several awards from Healthgrades for various specialties, including:

a. Labor and Delivery

- i. Five-Star Recipient for C-Section Delivery for 11 years in a row
- ii. Five-Star Recipient for Vaginal Delivery for 11 years in a row

b. Orthopedic

- i. Five-Star Recipient for Hip Fracture Treatment (2024)
- ii. Five-Star Recipient for Knee Replacement (2024)

c. Spine Surgery

i. Five-Star Recipient for Spinal Fusion (2025)

In addition, Plaintiff will produce and identify documents reflecting some of Plaintiff's rankings from other organizations.

Interrogatory No. 13: Describe any steps taken by Your hospital to improve any and all of the patient safety measures considered by Leapfrog's Hospital Safety Grade (as set forth on Leapfrog's published scoring methodology documents; see ECF No. 21-3 at 6-10; ECF No. 21-43 at 6-9), before and after each Safety Grade publication of which You complain.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of Plaintiff's improvements to "any and all" patient safety measures considered by Leapfrog's Hospital Safety Grade. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information on metrics other than TLG's Deceptive Score Categories and to the extent it seeks information that is beyond the scope of Leapfrog's Hospital Survey. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 14: State whether You are aware of specific patients who have relied on the Leapfrog Safety Grade in declining to receive healthcare services at Your hospital. In so answering, identify the individual patient that declined to receive services, the date of such declination, the type of service the patient declined to receive, the medium for the communication from the patient (i.e. telephone, video conference, email, letter, etc.), the content of the communication, and the reason given for the stated decision.

Answer: Plaintiff objects to this Interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Subject to the foregoing objection, Plaintiff has received reports that patients considered or decided not to use Plaintiff's facility because of TLG's misleading grades.

Interrogatory No. 15: Describe any effort Your hospital has made to influence public perception of Your hospital's performance on patient safety following the publication of the Leapfrog Safety Grade.

Answer: Plaintiff objects to this Interrogatory as vague and ambiguous because it does not specify which Leapfrog Safety Grade is at issue. Plaintiff will construe this Interrogatory to reference TLG's deceptive Safety Grades beginning in Fall 2024. Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks "any effort" Plaintiff "has made to influence public perception" after the release of TLG's deceptive and unfair Safety Grades because there have been many such "efforts" and those "efforts" are ongoing given the significant harm caused by TLG's deceptive and unfair business practices.

Subject to the foregoing objections, Plaintiff continues to influence public perception by, among other things, delivering the highest quality care to the community it serves, which, as discussed in response to Interrogatory 12, has led to numerous awards, accreditations, and accolades. In addition, several public statements disputing the misleading nature of the Safety Grade have been made on Plaintiff's behalf.

Interrogatory No. 16: Describe the due diligence Your hospital undertakes to ensure the accuracy of its own publicly reported safety data (including but not limited to data submitted to CMS, the CDC, and third party organizations).

Answer: Plaintiff objects to this Interrogatory as vague and ambiguous due to its use of the undefined term "due diligence." Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not

reasonably calculated to lead to the discovery of admissible evidence. Any “due diligence” Plaintiff performs when reporting to *third parties* has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices, especially when TLG does nothing to ensure the accuracy of information that hospitals that participate in its survey self-report. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 17: Describe in detail how You communicate to the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System the outcome of any and all healthcare safety ratings, evaluative publications, studies, or performance analyses that Your Hospital receives.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff’s communication, if any, with the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System, all non-parties to this litigation, has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 18: State whether the compensation of Your Chief Executive Officer or any other executive-level leadership officers is tied to or related in any way to Your hospital’s performance on patient safety, union worker contracts or Your hospital’s ratings by third party ratings organizations’ ratings publications (including but not limited to the Leapfrog Hospital Safety Grade).

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff’s method of compensating its Chief Executive Officer and other executive-level leadership has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices. TLG has, therefore, only

propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 19: Identify all hospitals, medical centers, or healthcare systems that you consider to be your direct competitors within the relevant geographic market during the time period covered by the Complaint and describe in detail the criteria you use to determine whether another hospital or healthcare provider is a competitor.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. The identity of Plaintiff's competitors and "the criteria" used to determine whether a hospital or provide is a competitor has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff also objects to this Interrogatory to the extent it seeks confidential, proprietary information, and commercially sensitive information related to Plaintiff's scoring system and "criteria" used to determine whether a hospital or provide is a competitor.

Subject to the foregoing objections and on condition that this response is considered "Confidential" under the forthcoming agreed confidentiality order, Jupiter Medical Center is Plaintiff's competitor. Plaintiff considers this hospital a competitor because of its proximity to Plaintiff, its competing services lines, and that patients within Plaintiff's service area go to this hospital for medical care.

Interrogatory No. 20: State and describe the results of any market analysis, competitive analysis, or consumer perception surveys you have conducted or commissioned regarding your competitors from 2020 to present, and identify the individuals or entities that prepared or participated in such analyses.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the

discovery of admissible evidence. The results of any market analysis, competitive analysis, or consumer perception surveys and the identity of those who prepared or participated in such analyses has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 21: Identify with specificity any comments or concerns raised by any third party payor, bank or lender, or investor related to Your hospital's reputation and/or public perception on issues in any way involving patient safety or satisfaction.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks "comments and concerns" from third parties related generally to Plaintiff's reputation that has nothing to do with the specific and significant reputational harm caused by TLG's misleading grades.

Subject to the foregoing objections, Plaintiff will produce and identify non-privileged documents (if any) related to the significant reputational harm caused by TLG's deceptive and unfair Safety Grades that provide sufficient detail to respond to this Interrogatory.

Interrogatory No. 22: Identify and describe any complaints, concerns, or comments from patients, community members, or referring physicians that relate to the hospital's reputation or comparisons to other hospitals in the region.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks "comments and concerns" from patients, community members, or referring physicians that have nothing to do with the significant reputational harm caused by TLG's misleading grades. Plaintiff

also objects to this interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Subject to the foregoing objections, Plaintiff has received reports that patients and physicians considered or decided not to use Plaintiff's facility because of TLG's misleading grades.

Interrogatory No. 23: List with specific detail each and every concern, complaint or comment made by any union, collective bargaining unit or employee association in any way related to patient safety at Your hospital.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks "each and every concern, complaint or comment " from third parties that have nothing to do with the significant reputational harm caused by TLG's misleading grades. Plaintiff also objects to this Interrogatory to the extent it seeks health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Subject to the foregoing objections, Plaintiff is unaware of any concern, complaint or comment regarding TLG deceptive scores made by the union at Plaintiff's hospital.

Interrogatory No. 24: Identify any and all criticism You have received since 2020 from Tenet Healthcare Corporation and/or from any individual executive of Tenet Healthcare Corporation regarding Your hospital's performance in any way.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is

not reasonably calculated to lead to the discovery of admissible evidence. Any so-called “criticism” has nothing to do with the claims and defenses related to TLG’s decision to use deceptive business practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Dated: July 25, 2025

Respectfully submitted,

By: /s/ Lee R. Crain

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Attorneys for St. Mary's Medical Center, Inc.

CERTIFICATE OF SERVICE

This is to certify that true and correct copies of Plaintiff's Responses and Objections to Defendant The Leapfrog Group's First Sets of Interrogatories to Plaintiff have been served on counsel for The Leapfrog Group by electronic transmission.

/s/ Lee R. Crain
Lee R. Crain

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.

**AFFIDAVIT OF CYNTHIA MCCAULEY IN SUPPORT OF
PLAINTIFF ST. MARY'S MEDICAL CENTER, INC.'S
RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP'S FIRST SET OF
INTERROGATORIES TO ST. MARY'S MEDICAL CENTER**

I, Cynthia McCauley, declare as follows:

7. I am over 21 years of age and competent to give this testimony.

8. I am the Chief Executive Officer of St. Mary's Medical Center, Inc. ("Plaintiff"). I am the corporate representative of Plaintiff for the purpose of answering Defendant The Leapfrog Group's First Set of Interrogatories to St. Mary's Medical Center. I have read the foregoing interrogatories and the answers to those interrogatories, which are true according to the best of my knowledge, information, and belief.

9. I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 25, 2025.

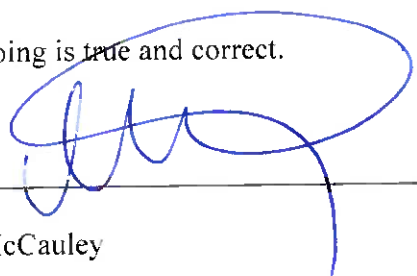

Cynthia McCauley

EXHIBIT 3E

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.

**PLAINTIFF WEST BOCA MEDICAL CENTER, INC.'S
RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP'S FIRST SET OF
INTERROGATORIES TO WEST BOCA MEDICAL CENTER**

Pursuant to Federal Rules of Civil Procedure 26 and 33 and the *Pretrial Scheduling Order and Order Referring Case to Mediation* (ECF No. 36) (the “Pretrial Scheduling Order”), Plaintiff West Boca Medical Center, Inc. (“Plaintiff”), by and through its undersigned counsel, hereby submits its responses and objections (“Responses”), to Defendant The Leapfrog Group’s (“TLG”) First Set of Interrogatories, dated July 11, 2025 (the “Interrogatories” and each numbered interrogatory, an “Interrogatory”) in the above-captioned action (the “Action”).

Plaintiff’s Responses to the Interrogatories are made solely for purposes of this Action and to the best of Plaintiff’s present knowledge, information, and belief regarding the matters about which inquiry have been made. Discovery is ongoing, and Plaintiff reserves the right to amend, supplement, clarify, or further explain its Responses at any time prior to the trial in

this Action. Plaintiff further reserves the right to raise any additional objections deemed necessary or appropriate in light of any further review.

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. Plaintiff objects to the definition of terms “Plaintiffs” and “Plaintiff Hospitals” as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it seeks to require Plaintiffs to respond on behalf of entities or individuals other than themselves.

2. Plaintiff objects to the definition of the terms “West Boca,” “West Boca Medical Center,” “Plaintiff,” “You,” and “Your” to the extent each term seeks to require Plaintiff to respond on behalf of entities or individuals other than themselves, including on behalf of agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

3. Plaintiff objects to the definition of the terms “Tenet Healthcare” and “Tenet” to the extent it seeks to require Plaintiff to respond on behalf of entities or individuals other than itself, including on behalf of Tenet, Tenet’s agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

4. Plaintiffs object to the definition of “identify, when referring to a person,” as overbroad and unduly burdensome to the extent it calls for the “address” and “present or last-known employer” of identified individuals. Such information is overbroad and beyond the scope of permissible discovery.

5. Plaintiff objects to the instruction that the relevant time period for the Interrogatories begins on January 1, 2020. Plaintiff will apply to each Interrogatory the time period

of November 1, 2023 to present (the “Relevant Time Period”). Any response to an Interrogatory that provides information that falls outside of the Relevant Time Period should not be construed as an admission that the Relevant Time Period begins prior to January 1, 2023.

SPECIFIC RESPONSES TO INTERROGATORIES

Interrogatory No. 1: State the full name, address, job title or position, and hospital or employer affiliation of all individuals that assisted with responding to these interrogatories.

Answer: The following individuals assisted with responding to these Interrogatories.

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Jerad Hanlon	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Chief Executive Officer	West Boca Medical Center
Regina West	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Market Quality Director	Palm Beach Health Network and St. Mary's Medical Center

Interrogatory No. 2: Identify every individual not identified in Your Rule 26(a) initial disclosures with knowledge of facts pertaining to the allegations in Your Complaint in this Lawsuit (and any subsequent amendments) and/or whom You believe may have discoverable knowledge, information or data regarding this matter, including those who You expect to call as a fact or opinion witness at any hearing in this proceeding or whose testimony (by affidavit, deposition or testimony) You intended to submit in connection with this proceeding, and the substance of his/her testimony or affidavit, and, with respect to each person identified, provide:

- A. full name,
- B. address,
- C. telephone number,
- D. job title or position,
- E. hospital or employer affiliation,
- F. and describe in detail the facts possessed by each such person.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of “every individual...with

knowledge” or who “may have discoverable knowledge, information or data regarding this matter.” Plaintiff will not provide more than the identity of individuals most likely to have knowledge regarding this matter. Plaintiff further objects to this Interrogatory as premature because it requests disclosure of Plaintiff’s witnesses for hearings and the substance of witness testimony before such disclosure is required under applicable law or the Pretrial Scheduling Order. Plaintiff will submit its trial witness list on October 2, 2025, per the Pretrial Scheduling Order, and disclose any other witnesses and witness testimony as further ordered by the Court or otherwise required by applicable law. Plaintiff also objects to this Interrogatory’s request for the identity of “opinion witness[es]” as vague, since witnesses are either “fact” or “expert” witnesses. Plaintiff will interpret “opinion witness” to mean “expert witness.” Plaintiff objects to this Interrogatory as premature to the extent it seeks disclosure of Plaintiff’s expert witness(es). Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Subject to the foregoing objection, Plaintiff will amend its Rule 26(a)(1) Initial Disclosures to identify additional individuals who may have knowledge of facts pertaining to the allegations in the Complaint.

Interrogatory No. 3: Describe in detail all factual bases for Your contention that Leapfrog’s published Safety Grade for Your hospital was false, inaccurate, misleading, deceptive, or unfair. In so answering, identify with particularity each measure, data point, or metric that You contend was inaccurately reported, calculated, or misrepresented by Leapfrog in calculating the Safety Grade for Your hospital.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all factual bases” for Plaintiff’s contention. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure:

Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory as premature to the extent it requests that Plaintiff “[d]escribe in detail all factual bases” to support its contention. *In re Reliance Fin. & Inv. Grp., Inc.*, 2006 WL 8435541, at *4 (S.D. Fla. Feb. 14, 2006) (Contention interrogatories “are more appropriately used after a substantial amount of discovery has been conducted--typically, at the end of the discovery period.”). Plaintiff also objects to this Interrogatory to the extent it attempts to limit or mischaracterize Plaintiff’s claim as just challenging the false, inaccurate, misleading, deceptive, or unfair nature of TLG’s Safety Grade. As the Court explained in its order denying TLG’s motion to dismiss, the core of the Complaint is “a challenge to Defendant’s representations about its methodology, which they claim mislead consumers by failing to distinguish between absent data and damning data, and professing that grades are not influenced by a hospital’s lack of survey participation.” *Order on Motion to Dismiss* 6 (ECF No. 41). Plaintiff also challenges the provably false facts and deceptive scoring system underlying these grades, which TLG admits it relies on to arrive at its deceptive Safety Grades.

Subject to the foregoing objections and as more fully stated in the *Complaint and Demand for Jury Trial* (ECF No. 1) (“Complaint”), TLG has engaged in deceptive and unfair business practices and misrepresentations when issuing the Safety Grade for Plaintiff’s hospital as part of TLG’s annual “Hospital Survey.” TLG posts these Safety Grades online at hospitalsafetygrade.org.

To arrive at these Safety Grades, TLG uses CMS data, survey responses from participating hospitals, and other supplemental data sources. For participating hospitals, TLG uses the hospitals’ self-reported responses to the Hospital Survey for 12 of the 22 measures. For non-participating hospitals, TLG uses other sources for those 12 measures. For the remaining four measures—Computerized Physician Order Entry, Bar Code Medication Administration, ICU Physician Staffing, and Hand Hygiene Score (the “Deceptive Score Categories”)—TLG devised and uses a

so-called “imputation model.” Prior to Fall 2024, TLG’s imputation model assigned non-participating hospitals a score based on the average score applicable to a similarly situated hospital. Beginning in Fall 2024, TLG modified its imputation model. TLG now assigns the lowest possible score to non-participating hospitals, which has the effect of punishing non-participating hospitals and artificially deflating their Safety Grades. TLG has even admitted the changes in Fall 2024 were designed to penalize non-participating hospitals. TLG also misleads consumers about how it grades hospitals, stating “[t]he Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the [TLG] Hospital Survey.” *Declaration of Lee Crain* (ECF No. 21) (“Crain Decl.”), Ex. 1 at 4 (“Frequently Asked Questions About the Leapfrog Hospital Safety Grade”).

As TLG explains, “not all hospitals have enough data publicly available to be eligible for a grade.” Crain Decl. Ex. 1 at 5. “As per the National Expert Panel guidance, [TLG] has requirements for the minimum amount of data [it] need[s] to issue an accurate grade.” Crain Decl. Ex. 1 at 5. According to TLG, “[h]ospitals missing more than six process measures” are “not graded.” Crain Decl. Ex. 2 at 6. Non-participating hospitals should fall easily into that “not graded” bucket, because their decision not to participate in TLG’s survey necessarily means TLG is missing seven process measures that rely on voluntary submission of hospital data.¹

TLG then deceptively conceals how it makes up grades for the four “imputation” measures and even suggests on its website that TLG *does* have data sufficient to score TLG on those four measures. By way of example, TLG acknowledges that Plaintiff “Declined to Report” information in response to questions about “Staff work[ing] together,” but then tells consumers—as if it were

¹ Those seven include CPOE, BCMA, IPS, Safe Practice 1: Culture of Leadership Structures and Systems; Safe Practice 2: Culture Measurement, Feedback & Intervention; Total Nursing Care Hours per Patient Day; and Hand Hygiene.

a fact—that Plaintiff is “Worse Than Average” on “Handwashing,” “Communication,” “medication administration,” and the like—even though TLG has no basis whatsoever to adopt those conclusions. Crain Decl. Ex. 35 at 2. TLG itself says handwashing is among the “most important” measures in its survey, Crain Decl. Ex. 15 at 4, yet it deceptively conceals that it has no data with which to grade the Plaintiff hospital on that measure. *Defendant The Leapfrog Group’s Responses to Plaintiffs’ Requests for Production* at 7 (“Leapfrog is not itself in possession of data showing Plaintiffs’ performance on the ‘imputed metrics’ considered by the methodology.”). Of course, Plaintiff in fact has a comprehensive and thorough handwashing policy. And had Plaintiff merely filled out TLG’s survey, it would have received a full two letter grades higher on TLG’s score. *Declaration of Sean Nicholson* (ECF No. 22) (“Nicholson Decl.”), Ex. 3.

Based on the foregoing, and as more fully set forth in the Complaint, TLG engages in deceptive trade practices by, among other things, deceiving consumers about its grading methods by implying that Plaintiff has failed on certain measures that, in truth, TLG has no data or other basis to evaluate; deceiving consumers by telling them the Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the Hospital Survey; deceiving consumers when it represents that it does not grade hospitals if it lacks sufficient data, when, in truth, it does grade hospitals by “imputing” or making up a grade for the Deceptive Score Categories; hiding the truth about its “imputation model” from consumers by burying it in fine print on a separate website; punishing non-participating hospitals by “imputing” scores, which artificially deflate a hospital’s Safety Grade; and favoring participating hospitals. Additional factual bases for the Plaintiff’s claims are presented in the Complaint.

Interrogatory No. 4: Describe the scoring or grading methodology You believe Leapfrog should have used to assess Your hospital's patient safety performance and explain why that method would yield a different result.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's provision of an alternative scoring or grading methodology has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it calls for speculation. Plaintiff also objects to this Interrogatory as premature to the extent it seeks information that may be the subject of expert testimony. Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 5: State whether You submitted any data, corrections, or appeals to Leapfrog regarding the Safety Grade Your hospital received, and for each such submission, identify the date of the submission, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the submission, and the content of the submission.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Whether or not Plaintiff submitted "any data, corrections, or appeals to Leapfrog regarding the Safety Grade" Plaintiff hospital received has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Subject to the foregoing objections, correspondence was sent on Plaintiff's behalf prior to the commencement of this case demanding that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, but at every turn TLG refused.

Interrogatory No. 6: State whether You provided any comment or input in any form during Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade methodology that was proposed for the calculation of Hospital Safety Grades (including but not limited to for the Fall 2024 methodology update). If yes, please identify the date of the comment, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the comment and the content of the comment. If no, please state the reason why You chose not to comment.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Whether or not Plaintiff submitted "any comment or input" in response to TLG's request for public comments has nothing to do the with claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Subject to the foregoing objections, Plaintiff did not provide comments in response to Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade scoring system because Plaintiff generally does not respond to requests for public comment from private entities like TLG.

Interrogatory No. 7: Describe all actions Your hospital took in response to (or in deciding not to respond to) its Safety Grade or the Hospital Survey, including internal meetings, media statements, or public relations efforts. In so answering, state the date of the action, the individuals involved in the action and the content of the action.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all actions” Plaintiffs may have taken in response to TLG’s Safety Grades. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, No. 14-81476-CIV, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure: Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Subject to the foregoing objections, Plaintiff devoted substantial time and resources that could have otherwise been spent continuing to improve patient care to respond to the significant harm and disruption caused by TLG’s deceptive and unfair Safety Grade. Plaintiff’s response included meeting internally with Plaintiff’s leadership team, medical executive committee, and governing board, corresponding with TLG to demand that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, and devoting substantial time and resources to facilitate the preparation and prosecution of this Action.

Interrogatory No. 8: Identify any and all persons, whether internal or external (e.g., patients, vendors, affiliates, parents, agents, partners, media) with whom You communicated in any way with respect to the Safety Grade or the Hospital Survey. In so answering, state the date of the communication, the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.) and the content of the communication.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of “any and all persons, whether internal or external.” Plaintiff will disclose the categories of individuals with whom Plaintiff communicated about the Safety Grade or Hospital Survey during the Relevant Time

Period. Plaintiff also object to this Interrogatory to the extent it seeks protected health information that Health Insurance Portability and Accountability Act (“HIPAA”), among other statutes and regulations, bars Plaintiff from disclosing. Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Subject to the foregoing objections, Plaintiff communicated with the following categories of people regarding the Safety Grade or the Hospital Survey: Plaintiff’s governing board, its medical executive committee, department directors, and physicians and nurses when asked about the Safety Grade or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grade for Plaintiff’s hospital. Most of these communications occurred during regularly scheduled meetings, during which attendees were told about TLG’s release of the deceptive and unfair Safety Grade, that Plaintiff does not participate in the Hospital Survey because it is unreliable and not an accurate reflection of hospital quality and safety or patient outcomes, and that the Safety Grade, which was not based on any information provided by Plaintiff, was misleading. The Palm Beach Health Network also issued a press release and since then, has engaged in marketing efforts to counteract TLG’s deceptive scores on behalf of Plaintiff.

Interrogatory No. 9: Describe all instances in which a third party declined to contract with, refer patients to, or work with Your hospital, where Leapfrog’s grade was cited or discussed. In so identifying list the name of the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.), the date of the communication and the content of the communication.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it requires Plaintiff to “[d]escribe all instances” in which a third party took an action in response to TLG’s deceptive grade.

Subject to the foregoing objection, Plaintiff is not aware of any responsive instances.

Interrogatory No. 10: Describe with specificity the basis for each and every category of damage You claim You incurred as a result of the Leapfrog Safety Grade. In so identifying, list each category of damages and the dollar value of each category of damage You claim.

Answer: Plaintiff objects to this Interrogatory as premature to the extent it seeks information that may be the subject of expert testimony. Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Interrogatory No. 11: Identify all adverse patient events which occurred at Your hospital, including any citations received from regulatory agencies, accrediting agencies, and third party payors such as The Joint Commission, CMS, state health departments, etc. during the period covered by each Leapfrog Safety Grade publication of which You complain (i.e., Fall 2024, Fall 2025, etc.), as well as any complaints received from patients regarding the same.

Answer: Plaintiff objects to this Interrogatory because it is overly broad, unduly burdensome, seeks discovery of information that is irrelevant to the claims and defenses in this Action, seeks information that is beyond the scope of Leapfrog’s Hospital Survey, and is not reasonably calculated to lead to the discovery of admissible evidence. TLG does not include “all adverse patient events,” “citations received from” agencies or payors, or “complaints received from patients” in TLG’s determination of its Hospital Safety Grades or request such information in the Hospital Survey, so any such information is irrelevant to whether TLG’s actions constitute unfair or deceptive trade practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff also objects to this Interrogatory to the extent it seeks protected health

information that HIPAA, among other statutes and regulations, bars Plaintiff from disclosing. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 12: Describe in detail how Your hospital compares nationally on on [sic] any other ranking of patient safety performance, including but not limited to Vizient, Inc., Premier, Inc., HealthTrust Purchasing Group, The Joint Commission, HealthGrades, US News, Newsweek, Statista, Definitive Healthcare, or any other quality benchmarking entity including benchmarking on patient safety including on adverse events and on healthcare-acquired infections.

Answer: Plaintiff objects to this Interrogatory's request that Plaintiff "[d]escribe in detail how Your hospital compares nationally" based on undisclosed "benchmarking" as vague and confusing. To the extent this Interrogatory seeks the top-line rankings of the identified organizations, Plaintiff objects to this Interrogatory because such information is publicly and equally available to TLG. To the extent this Interrogatory asks Plaintiff to compare itself to the named and unnamed entities, that request is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Other organizations' rankings have nothing to do with the claims and defenses in this case related to the Deceptive Score Categories or TLG's decision to use deceptive business practices.

Subject to the foregoing objections, Plaintiff has received numerous awards and accolades, including many that are directly relevant to patient care for children and women that Plaintiff serves. For example, Plaintiff is the only Level III NICU facility in southern Palm Beach County. Level III NICUs provide lifesaving care for babies born before 32 weeks' gestation or babies with specific medical conditions that require surgery or specialized pediatric care. The American College of Radiology accredited Plaintiff for Imaging Modalities including Nuclear Medicine, Ultrasound, MRI, CT—which provides us the ability to care for the Level III NICU children and

at-risk pregnancy mothers that Plaintiff treats and ensures Plaintiff is using best practices. Relatedly, Plaintiff has an accredited education program in radiology through Joint Review Committee on Education and Radiologic Technology, which is the only agency recognized by the United States Department of Education and the Council for Higher Education Accreditation for the accreditation of traditional and distance delivery educational programs in radiography, radiation therapy, magnetic resonance, and medical dosimetry. This program provides Plaintiff's clinical staff with educational opportunities to ensure Plaintiff's patients receive quality care.

Plaintiff is accredited by the Joint Commission, the nation's largest hospital accreditor that evaluates hospitals' quality performance standards through an objective evaluation process. Plaintiff has also been accredited by Joint Commission for specialization certifications for Joint-Replacement – Hip, Joint Replacement – Shoulder, and Joint Replacement – Knee—a certification designed for hospitals providing the critical elements to achieve long-term success in improving critical medical outcomes—which signifies Plaintiff's services have delivered evidence-based proof of clinical quality sought by patients and payers alike. The entities that award and assign these accreditations visit the healthcare facility and perform regular periodic in-person reviews, audits, surveys, and assessments of the facility.

Plaintiff has also received numerous awards that exemplify its quality such as Get with the Guidelines Silver Plus Stroke Recognition Award and Diabetes Honor Roll. In addition, as a facility that primarily treats mothers and children, it is important to Plaintiff that Plaintiff implements the American Academy of Pediatrics best practices and has been recognized for doing so by receiving the Silver designation from the Cribs for Kids' National Safe Sleep Hospital Certification program, which signifies Plaintiff's facility's commitment to infant safe sleep to

reduce the risk of Sudden Unexpected Infant Death, Accidental Suffocation and Strangulation in Bed, SIDS, and unsafe sleep injuries.

Healthgrades has awarded Plaintiff numerous Healthgrades accolades. To assess and evaluate hospitals, Healthgrades relies on data from Medicare medical claims records and states' data on Medicare and commercially insured patient outcomes to determine patients' actual clinical outcomes when visiting a given hospital. Plaintiff also received several awards from Healthgrades for various specialties, including:

a. Critical Care

- i. Five-Star Recipient for Treatment of Sepsis for four years in a row (2022-2025)

b. Gastrointestinal

- i. Recipient of the Healthgrades Gastrointestinal Care Excellence Award (2022-2025)
- ii. Recipient of the Healthgrades Gastrointestinal Surgery Excellence Award (2025)
- iii. Top 10% in the Nation for overall Gastrointestinal Services (2025)
- iv. Top 10% in the Nation for Gastrointestinal Surgery (2025)
- v. Five-Star Recipient for Colorectal Surgeries for three years in a row (2023-2025)
- vi. Five-Star Recipient for Treatment of Bowel Obstruction (2025)

c. Labor and Delivery

- i. Five-Star Recipient for C-Section Delivery for 11 years in a row (2015-2025)

- ii. Five-Star Recipient for Vaginal Delivery for 11 years in a row (2015-2025)

d. Pulmonary Care

- i. Five-Star Recipient for Treatment of Respiratory Failure for three years in a row (2023-2025)

In addition, Plaintiff will produce and identify documents reflecting some of Plaintiff's rankings from other organizations.

Interrogatory No. 13: Describe any steps taken by Your hospital to improve any and all of the patient safety measures considered by Leapfrog's Hospital Safety Grade (as set forth on Leapfrog's published scoring methodology documents; see ECF No. 21-3 at 6-10; ECF No. 21-43 at 6-9), before and after each Safety Grade publication of which You complain.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of Plaintiff's improvements to "any and all" patient safety measures considered by Leapfrog's Hospital Safety Grade. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information on metrics other than TLG's Deceptive Score Categories and to the extent it seeks information that is beyond the scope of Leapfrog's Hospital Survey. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 14: State whether You are aware of specific patients who have relied on the Leapfrog Safety Grade in declining to receive healthcare services at Your hospital. In so answering, identify the individual patient that declined to receive services, the date of such declination, the type of service the patient declined to receive, the medium for the communication from the patient (i.e. telephone, video conference, email, letter, etc.), the content of the communication, and the reason given for the stated decision.

Answer: Plaintiff objects to this Interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Subject to the foregoing objection, Plaintiff has received reports that patients considered or decided not to use Plaintiff's facility because of TLG's misleading grades.

Interrogatory No. 15: Describe any effort Your hospital has made to influence public perception of Your hospital's performance on patient safety following the publication of the Leapfrog Safety Grade.

Answer: Plaintiff objects to this Interrogatory as vague and ambiguous because it does not specify which Leapfrog Safety Grade is at issue. Plaintiff will construe this Interrogatory to reference TLG's deceptive Safety Grades beginning in Fall 2024. Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks "any effort" Plaintiff "has made to influence public perception" after the release of TLG's deceptive and unfair Safety Grades because there have been many such "efforts" and those "efforts" are ongoing given the significant harm caused by TLG's deceptive and unfair business practices.

Subject to the foregoing objections, Plaintiff continues to influence public perception by, among other things, delivering the highest quality care to the community it serves, which, as discussed in response to Interrogatory 12, has led to numerous awards, accreditations, and accolades. In addition, several public statements disputing the misleading nature of the Safety Grade have been made on Plaintiff's behalf.

Interrogatory No. 16: Describe the due diligence Your hospital undertakes to ensure the accuracy of its own publicly reported safety data (including but not limited to data submitted to CMS, the CDC, and third party organizations).

Answer: Plaintiff objects to this Interrogatory as vague and ambiguous due to its use of the undefined term “due diligence.” Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Any “due diligence” Plaintiff performs when reporting to *third parties* has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices, especially when TLG does nothing to ensure the accuracy of information that hospitals that participate in its survey self-report. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 17: Describe in detail how You communicate to the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System the outcome of any and all healthcare safety ratings, evaluative publications, studies, or performance analyses that Your Hospital receives.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff’s communication, if any, with the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System, all non-parties to this litigation, has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 18: State whether the compensation of Your Chief Executive Officer or any other executive-level leadership officers is tied to or related in any way to Your hospital’s performance on patient safety, union worker contracts or Your hospital’s ratings by third party ratings organizations’ ratings publications (including but not limited to the Leapfrog Hospital Safety Grade).

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's method of compensating its Chief Executive Officer and other executive-level leadership has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 19: Identify all hospitals, medical centers, or healthcare systems that you consider to be your direct competitors within the relevant geographic market during the time period covered by the Complaint and describe in detail the criteria you use to determine whether another hospital or healthcare provider is a competitor.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. The identity of Plaintiff's competitors and "the criteria" used to determine whether a hospital or provide is a competitor has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff also objects to this Interrogatory to the extent it seeks confidential, proprietary information, and commercially sensitive information related to Plaintiff's scoring system and "criteria" used to determine whether a hospital or provide is a competitor.

Subject to the foregoing objections and on condition that this response is considered "Confidential" under the forthcoming agreed confidentiality order, Bethesda Hospital East, Bethesda Hospital West, Boca Raton Regional Hospital, Broward Health Hospital in Coral Springs, and HCA Florida Northwest Hospital are Plaintiff's competitors. Plaintiff considers these

hospitals competitors because of their proximity to Plaintiff, their competing services lines, and that patients within Plaintiff's service area go to these hospitals for medical care.

Interrogatory No. 20: State and describe the results of any market analysis, competitive analysis, or consumer perception surveys you have conducted or commissioned regarding your competitors from 2020 to present, and identify the individuals or entities that prepared or participated in such analyses.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. The results of any market analysis, competitive analysis, or consumer perception surveys and the identity of those who prepared or participated in such analyses has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff declines to respond to this Interrogatory.

Interrogatory No. 21: Identify with specificity any comments or concerns raised by any third party payor, bank or lender, or investor related to Your hospital's reputation and/or public perception on issues in any way involving patient safety or satisfaction.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks "comments and concerns" from third parties related generally to Plaintiff's reputation that has nothing to do with the specific and significant reputational harm caused by TLG's misleading grades.

Subject to the foregoing objections, Plaintiff will produce and identify non-privileged documents (if any) related to the significant reputational harm caused by TLG's deceptive and unfair Safety Grades that provide sufficient detail to respond to this Interrogatory.

Interrogatory No. 22: Identify and describe any complaints, concerns, or comments from patients, community members, or referring physicians that relate to the hospital's reputation or comparisons to other hospitals in the region.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks “comments and concerns” from patients, community members, or referring physicians that have nothing to do with the significant reputational harm caused by TLG’s misleading grades. Plaintiff also objects to this interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Subject to the foregoing objections, Plaintiff has received reports that patients and physicians considered or decided not to use Plaintiff’s facility because of TLG’s misleading grades.

Interrogatory No. 23: List with specific detail each and every concern, complaint or comment made by any union, collective bargaining unit or employee association in any way related to patient safety at Your hospital.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks “each and every concern, complaint or comment ” from third parties that have nothing to do with the significant reputational harm caused by TLG’s misleading grades. Plaintiff also objects to this Interrogatory to the extent it seeks health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Subject to the foregoing objections, Plaintiff is unaware of any concern, complaint or comment regarding TLG deceptive scores made by the union at Plaintiff's hospital.

Interrogatory No. 24: Identify any and all criticism You have received since 2020 from Tenet Healthcare Corporation and/or from any individual executive of Tenet Healthcare Corporation regarding Your hospital's performance in any way.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Any so-called "criticism" has nothing to do with the claims and defenses related to TLG's decision to use deceptive business practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Dated: July 25, 2025

Respectfully submitted,

By: /s/ Lee R. Crain

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Attorneys for West Boca Medical Center, Inc.

CERTIFICATE OF SERVICE

This is to certify that true and correct copies of Plaintiff's Responses and Objections to Defendant The Leapfrog Group's First Sets of Interrogatories to Plaintiff have been served on counsel for The Leapfrog Group by electronic transmission.

/s/ Lee R. Crain
Lee R. Crain

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.

**AFFIDAVIT OF JERAD HANLON IN SUPPORT OF
PLAINTIFF WEST BOCA MEDICAL CENTER, INC.'S
RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP'S FIRST SET OF
INTERROGATORIES TO WEST BOCA MEDICAL CENTER**

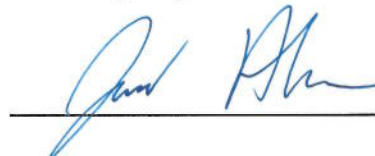
I, Jerad Hanlon, declare as follows:

10. I am over 21 years of age and competent to give this testimony.

11. I am the Chief Executive Officer of West Boca Medical Center, Inc. ("Plaintiff"). I am the corporate representative of Plaintiff for the purpose of answering Defendant The Leapfrog Group's First Set of Interrogatories to West Boca Medical Center. I have read the foregoing interrogatories and the answers to those interrogatories, which are true according to the best of my knowledge, information, and belief.

12. I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 25, 2025.



Jerad Hanlon

EXHIBIT 4A

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.

**PLAINTIFF GOOD SAMARITAN MEDICAL CENTER, INC.’S
AMENDED AND SUPPLEMENTED RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP’S FIRST SET OF
INTERROGATORIES TO GOOD SAMARITAN MEDICAL CENTER, INC.**

Pursuant to Federal Rules of Civil Procedure 26 and 33 and the *Pretrial Scheduling Order and Order Referring Case to Mediation* (ECF No. 36) (the “Pretrial Scheduling Order”), Plaintiff Good Samaritan Medical Center, Inc. (“Plaintiff” or “Good Samaritan”), by and through its undersigned counsel, hereby submit its amended and supplemented responses and objections (“Responses”), to Defendant The Leapfrog Group’s (“TLG”) First Set of Interrogatories, dated July 11, 2025 (the “Interrogatories” and each numbered interrogatory, an “Interrogatory”) in the above-captioned action (the “Action”).

Plaintiff’s Responses to the Interrogatories are made solely for purposes of this Action and to the best of Plaintiff’s present knowledge, information, and belief regarding the matters about which inquiry have been made. Discovery is ongoing, and Plaintiff reserves the right to amend, supplement, clarify, or further explain its Responses at any time prior to the trial in

this Action. Plaintiff further reserves the right to raise any additional objections deemed necessary or appropriate in light of any further review.

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. Plaintiff objects to the definition of terms “Plaintiffs” and “Plaintiff Hospitals” as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it seeks to require Plaintiffs to respond on behalf of entities or individuals other than themselves.

2. Plaintiff objects to the definition of the terms “Good Samaritan”, “GSMC” “Plaintiff,” “You,” and “Your” to the extent each term seeks to require Plaintiff to respond on behalf of entities or individuals other than itself, including on behalf of agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

3. Plaintiff objects to the definition of the terms “Tenet Healthcare” and “Tenet” to the extent it seeks to require Plaintiff to respond on behalf of entities or individuals other than itself, including on behalf of Tenet, Tenet’s agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

4. Plaintiff objects to the definition of “identify, when referring to a person,” as overbroad and unduly burdensome to the extent it calls for the “address” and “present or last-known employer” of identified individuals. Such information is overbroad and beyond the scope of permissible discovery.

5. Plaintiff objects to the instruction that the relevant time period for the Interrogatories begins on January 1, 2020. Plaintiff will apply to each Interrogatory the time period

of November 1, 2023 to present (the “Relevant Time Period”). Any response to an Interrogatory that provides information that falls outside of the Relevant Time Period should not be construed as an admission that the Relevant Time Period begins prior to November 1, 2023.

SPECIFIC RESPONSES TO INTERROGATORIES

Interrogatory No. 1: State the full name, address, job title or position, and hospital or employer affiliation of all individuals that assisted with responding to these interrogatories.

Answer: The following individuals assisted with responding to these Interrogatories.

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Sheri Montgomery	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Chief Executive Officer	Good Samaritan Medical Center
Regina West	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Market Quality Director	Palm Beach Health Network and St. Mary's Medical Center

Interrogatory No. 2: Identify every individual not identified in Your Rule 26(a) initial disclosures with knowledge of facts pertaining to the allegations in Your Complaint in this Lawsuit (and any subsequent amendments) and/or whom You believe may have discoverable knowledge, information or data regarding this matter, including those who You expect to call as a fact or opinion witness at any hearing in this proceeding or whose testimony (by affidavit, deposition or testimony) You intended to submit in connection with this proceeding, and the substance of his/her testimony or affidavit, and, with respect to each person identified, provide:

- A. full name,
- B. address,
- C. telephone number,
- D. job title or position,
- E. hospital or employer affiliation,
- F. and describe in detail the facts possessed by each such person.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of “every individual...with knowledge” or who “may have discoverable knowledge, information or data regarding this matter.” Plaintiff will not provide more than the identity of individuals most likely to have knowledge regarding this matter. Plaintiff further objects to this Interrogatory as premature because it requests disclosure of Plaintiff’s witnesses for hearings and the substance of witness testimony before such disclosure is required under applicable law or the Pretrial Scheduling Order. Plaintiff will submit its trial witness list on October 2, 2025, per the Pretrial Scheduling Order, and disclose any other witnesses and witness testimony as further ordered by the Court or otherwise required by applicable law. Plaintiff also objects to this Interrogatory’s request for the identity of “opinion witness[es]” as vague, since witnesses are either “fact” or “expert” witnesses. Plaintiff will interpret “opinion witness” to mean “expert witness.” Plaintiff submitted expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Answer: Subject to the foregoing objection, Plaintiff will amend its Rule 26(a)(1) Initial Disclosures to identify additional individuals who may have knowledge of facts pertaining to the allegations in the Complaint.

Amended Answer: In addition to those disclosed in Plaintiff’s supplemental disclosures, the following individuals may have relevant factual knowledge:

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Regina West	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Market Quality Director	Palm Beach Health Network and St. Mary’s Medical Center

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Erin Britt	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Quality Director	Good Samaritan Medical Center

In addition to the individuals identified above, persons identified in documents produced in this dispute have knowledge of facts pertaining to the allegations in the Amended Complaint. *See* Fed. R. Civ. P. 33(d). Discovery is ongoing, and Plaintiff reserves the right to supplement, amend, correct, clarify, or modify this Response as further information becomes available.

Interrogatory No. 3: Describe in detail all factual bases for Your contention that Leapfrog’s published Safety Grade for Your hospital was false, inaccurate, misleading, deceptive, or unfair. In so answering, identify with particularity each measure, data point, or metric that You contend was inaccurately reported, calculated, or misrepresented by Leapfrog in calculating the Safety Grade for Your hospital.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all factual bases” for Plaintiff’s contention. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure: Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory as premature to the extent it requests that Plaintiff “[d]escribe in detail all factual bases” to support its contention. *In re Reliance Fin. & Inv. Grp., Inc.*, 2006 WL 8435541, at *4 (S.D. Fla. Feb. 14, 2006) (Contention interrogatories “are more appropriately used after a substantial amount of discovery has been conducted--typically, at the end of the discovery period.”). Plaintiff also objects to this Interrogatory to the extent it attempts to limit or mischaracterize Plaintiff’s claim as just

challenging the false, inaccurate, misleading, deceptive, or unfair nature of TLG’s Safety Grade. As the Court explained in its order denying TLG’s motion to dismiss, the core of the Complaint is “a challenge to Defendant’s representations about its methodology, which they claim mislead consumers by failing to distinguish between absent data and damning data, and professing that grades are not influenced by a hospital’s lack of survey participation.” *Order on Motion to Dismiss* 6 (ECF No. 41). Plaintiff also challenges the provably false facts and deceptive scoring system underlying these grades, which TLG admits it relies on to arrive at its deceptive Safety Grades.

Subject to the foregoing objections and as more fully stated in the *Amended Complaint* (ECF No. 74) (“Complaint”), TLG has engaged in deceptive and unfair business practices and misrepresentations when issuing the Safety Grade for Plaintiff’s hospital as part of TLG’s annual “Hospital Survey.” TLG posts these Safety Grades online at hospitalsafetygrade.org.

To arrive at these Safety Grades, TLG uses CMS data, survey responses from participating hospitals, and other supplemental data sources. For participating hospitals, TLG uses the hospitals’ self-reported responses to the Hospital Survey for 12 of the 22 measures. For non-participating hospitals, TLG uses other sources for those 12 measures. For the remaining four measures—Computerized Physician Order Entry, Bar Code Medication Administration, ICU Physician Staffing, and Hand Hygiene Score (the “Deceptive Score Categories”)—TLG devised and uses a so-called “imputation model.” Prior to Fall 2024, TLG’s imputation model assigned non-participating hospitals a score based on the average score applicable to a similarly situated hospital. Beginning in Fall 2024, TLG modified its imputation model. TLG now assigns the lowest possible score to non-participating hospitals, which has the effect of punishing non-participating hospitals and artificially deflating their Safety Grades. TLG has even admitted the changes in Fall 2024 were designed to penalize non-participating hospitals. TLG also misleads consumers about how

it grades hospitals, stating “[t]he Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the [TLG] Hospital Survey.” *Declaration of Lee Crain* (ECF No. 21) (“Crain Decl.”), Ex. 1 at 4 (“Frequently Asked Questions About the Leapfrog Hospital Safety Grade”).

As TLG explains, “not all hospitals have enough data publicly available to be eligible for a grade.” Crain Decl. Ex. 1 at 5. “As per the National Expert Panel guidance, [TLG] has requirements for the minimum amount of data [it] need[s] to issue an accurate grade.” Crain Decl. Ex. 1 at 5. According to TLG, “[h]ospitals missing more than six process measures” are “not graded.” Crain Decl. Ex. 2 at 6. Non-participating hospitals should fall easily into that “not graded” bucket, because their decision not to participate in TLG’s survey necessarily means TLG is missing seven process measures that rely on voluntary submission of hospital data.¹

TLG then deceptively conceals how it makes up grades for the four “imputation” measures and even suggests on its website that TLG *does* have data sufficient to score TLG on those four measures. By way of example, TLG acknowledges that Plaintiff “Declined to Report” information in response to questions about “Staff work[ing] together,” but then tells consumers—as if it were a fact—that Plaintiff is “Worse Than Average” on “Handwashing,” “Communication,” “medication administration,” and the like—even though TLG has no basis whatsoever to adopt those conclusions. Crain Decl. Ex. 32 at 2. TLG itself says handwashing is among the “most important” measures in its survey, Crain Decl. Ex. 15 at 4, yet it deceptively conceals that it has no data with which to grade the Plaintiff hospital on that measure. *Defendant The Leapfrog Group’s Responses to Plaintiffs’ Requests for Production* at 7 (“Leapfrog is not itself in possession

¹ Those seven include CPOE, BCMA, IPS, Safe Practice 1: Culture of Leadership Structures and Systems; Safe Practice 2: Culture Measurement, Feedback & Intervention; Total Nursing Care Hours per Patient Day; and Hand Hygiene.

of data showing Plaintiffs' performance on the 'imputed metrics' considered by the methodology.")). Of course, Plaintiff in fact has a comprehensive and thorough handwashing policy. And had Plaintiff merely filled out TLG's survey, it would have received a full letter grade higher on TLG's score. *Expert Report of Professor Sean Nicholson* (Aug. 7, 2025), Ex. 6.

Based on the foregoing, and as more fully set forth in the Complaint, TLG engages in deceptive trade practices by, among other things, deceiving consumers about its grading methods by implying that Plaintiff has failed on certain measures that, in truth, TLG has no data or other basis to evaluate; deceiving consumers by telling them the Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the Hospital Survey; deceiving consumers when it represents that it does not grade hospitals if it lacks sufficient data, when, in truth, it does grade hospitals by "imputing" or making up a grade for the Deceptive Score Categories; hiding the truth about its "imputation model" from consumers by burying it in fine print on a separate website; punishing non-participating hospitals by "imputing" scores, which artificially deflate a hospital's Safety Grade; and favoring participating hospitals. Additional factual bases for the Plaintiff's claims are presented in the Complaint.

Interrogatory No. 4: Describe the scoring or grading methodology You believe Leapfrog should have used to assess Your hospital's patient safety performance and explain why that method would yield a different result.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff's provision of an alternative scoring or grading methodology has nothing to do with the claims and defenses in this case related to TLG's

decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it calls for speculation.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objections, Plaintiff responds that TLG should use a scoring system that is not unfair or deceptive. By way of example only, TLG could decline to grade hospitals that do not participate in TLG's survey, because their decision not to participate means TLG is missing seven process measures that rely on voluntary submission of hospital data. This would yield a different result, because the hospitals would not receive a grade at all. TLG's methodology certainly should not affirmatively assign an arbitrary low score to a particular metric just because a hospital does not provide data for that metric.

Interrogatory No. 5: State whether You submitted any data, corrections, or appeals to Leapfrog regarding the Safety Grade Your hospital received, and for each such submission, identify the date of the submission, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the submission, and the content of the submission.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Whether or not Plaintiff submitted "any data, corrections, or appeals to Leapfrog regarding the Safety Grade" Plaintiff hospital received has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Answer: Subject to the foregoing objections, Plaintiff engaged in correspondence prior to the commencement of this case demanding that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, but at every turn TLG refused.

Amended Answer: Subject to the foregoing objections, Plaintiff did not submit any data, corrections or appeals to Leapfrog regarding the Safety Grades it has received.

Interrogatory No. 6: State whether You provided any comment or input in any form during Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade methodology that was proposed for the calculation of Hospital Safety Grades (including but not limited to for the Fall 2024 methodology update). If yes, please identify the date of the comment, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the comment and the content of the comment. If no, please state the reason why You chose not to comment.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Whether or not Plaintiff submitted "any comment or input" in response to TLG's request for public comments has nothing to do with claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Subject to the foregoing objections, Plaintiff did not provide comments in response to Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade scoring system because Plaintiff generally does not respond to requests for public comment from private entities like TLG.

Interrogatory No. 7: Describe all actions Your hospital took in response to (or in deciding not to respond to) its Safety Grade or the Hospital Survey, including internal meetings, media statements, or public relations efforts. In so answering, state the date of the action, the individuals involved in the action and the content of the action.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all actions” Plaintiffs may have taken in response to TLG’s Safety Grades. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, No. 14-81476-CIV, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure: Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Answer: Subject to the foregoing objections, Plaintiff devoted substantial time and resources that could have otherwise been spent continuing to improve patient care to respond to the significant harm and disruption caused by TLG’s deceptive and unfair Safety Grade. Plaintiff’s response included meeting internally with Plaintiff’s leadership team, medical executive committee, and governing board, corresponding with TLG to demand that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, and devoting substantial time and resources to facilitate the preparation and prosecution of this Action.

Amended Answer: Subject to the foregoing objections, Plaintiff devoted substantial time and resources that could have otherwise been spent continuing to improve patient care to respond to the significant harm and disruption caused by TLG’s deceptive and unfair Safety Grades. Plaintiff’s response included meeting internally with Plaintiff’s leadership team, medical executive

committee, and governing board, corresponding through Plaintiff's corporate parent with TLG to demand that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, and devoting substantial time and resources to facilitate the preparation and prosecution of this Action. Plaintiff has also held many phone calls and meetings with physicians and other stakeholders about the TLG grades, explaining how the grades were deceptive and did not accurately reflect the hospital quality and patient safety at Plaintiff.

Interrogatory No. 8: Identify any and all persons, whether internal or external (e.g., patients, vendors, affiliates, parents, agents, partners, media) with whom You communicated in any way with respect to the Safety Grade or the Hospital Survey. In so answering, state the date of the communication, the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.) and the content of the communication.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of "any and all persons, whether internal or external." Plaintiff will disclose the categories of individuals with whom Plaintiff communicated about the Safety Grade or Hospital Survey during the Relevant Time Period. Plaintiff also objects to this Interrogatory to the extent it seeks protected health information that Health Insurance Portability and Accountability Act ("HIPAA"), among other statutes and regulations, bars Plaintiff from disclosing. Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Answer: Subject to the foregoing objections, Plaintiff communicated with the following categories of people regarding the Safety Grade or the Hospital Survey: Plaintiff's governing board, its medical executive committee, department directors, and physicians and nurses when

asked about the Safety Grade or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grade for Plaintiff's hospital. Most of these communications occurred during regularly scheduled meetings, during which attendees were told about TLG's release of the deceptive and unfair Safety Grade, that Plaintiff does not participate in the Hospital Survey because it is unreliable and not an accurate reflection of hospital quality and safety or patient outcomes, and that the Safety Grade, which was not based on any information provided by Plaintiff, was misleading. The Palm Beach Health Network also issued a press release and since then, has engaged in various social networking and other marketing campaigns to counteract TLG's deceptive scores on behalf of Plaintiff and other affected members of the network.

Amended Answer: Subject to the foregoing objections, Plaintiff communicated with the following categories of people regarding the Safety Grade or the Hospital Survey: Plaintiff's governing board, its medical executive committee, department directors, physicians and nurses, and patients when asked about the Safety Grades or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grades for Plaintiff's hospital. Most of these communications occurred during regularly scheduled meetings, during which attendees were told about TLG's release of the deceptive and unfair Safety Grade, that Plaintiff does not participate in the Hospital Survey because it is unreliable and not an accurate reflection of hospital quality and safety or patient outcomes, and that the Safety Grade, which was not based on any information provided by Plaintiff, was misleading. The Palm Beach Health Network also issued a press release and has engaged in marketing efforts, including through social media, to counteract TLG's deceptive scores on behalf of Plaintiff and other affected members of

the network. Plaintiff also engaged in email discussions about TLG's misleading grades, either as sender or recipient, which TLG has through Plaintiff's production of documents.

Interrogatory No. 9: Describe all instances in which a third party declined to contract with, refer patients to, or work with Your hospital, where Leapfrog's grade was cited or discussed. In so identifying list the name of the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.), the date of the communication and the content of the communication.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it requires Plaintiff to "[d]escribe all instances" in which a third party took an action in response to TLG's deceptive grade.

Answer: Subject to the foregoing objection, Plaintiff is not aware of any responsive instances.

Amended Answer: Subject to the forgoing objection, by way of example, our Chief Nursing Officer reported that a nursing candidate questioned the quality of care of the hospital in her interview for a job opening. In addition, the recently hired Director of Cardiac Cathater Lab shared with the Chief Operating Officer that he considered rescinding his acceptance of the position after learning that the hospital had received an F from TLG, but he was glad that he didn't do so because Good Samaritan is a high-quality hospital and he is happy to be part of the organization.

Interrogatory No. 10: Describe with specificity the basis for each and every category of damage You claim You incurred as a result of the Leapfrog Safety Grade. In so identifying, list each category of damages and the dollar value of each category of damage You claim.

Plaintiff objects to this Interrogatory to the extent it seeks information that is the subject of expert testimony.

Answer: Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Amended Answer: Plaintiff has served the expert report of Thomas Chakurda, which addresses the issue of reputational harm and harm to Plaintiff's goodwill. Plaintiff further objects to this Interrogatory as overbroad and unduly burdensome to the extent it seeks "each and every" category of claimed damages.

Subject to the foregoing objections and as agreed during the parties' September 3, 2025 meet and confer, Plaintiff will limit its response to the live non-monetary claims, including injunctive and declaratory relief, to remedy harm to Plaintiff's reputation and goodwill. Plaintiff's reputation and goodwill has been damaged by TLG's false and misleading methodology and resulting Safety Grades. Plaintiff's claim for reputational harm is based on, among other things, concerns raised by patients, doctors, staff, and community members, as well as false and misleading statements based on TLG's false and misleading methodology and Safety Grades made in newspapers, viral social-media videos, television programs, and blogs.

By way of example, our Medical Executive Committee has received direct inquiries from patients regarding their concerns as TLG's grades and related public reports. Our Chief Nursing Officer reported that a nursing candidate questioned the quality of care of the hospital in her interview for a job opening. Patients have asked independent physicians that use both our facilities and those of Jupiter Medical Center (a nearby hospital) to schedule their surgeries at Jupiter Medical Center and not at ours. Those patients chose not to use our hospital specifically because of the Leapfrog grades. These independent surgeons have told us that they believe TLG has misled these patients about the quality of the Medical Center. The harm caused by TLG's false and misleading Safety Grade is ongoing.

Interrogatory No. 11: Identify all adverse patient events which occurred at Your hospital, including any citations received from regulatory agencies, accrediting agencies, and third party payors such as The Joint Commission, CMS, state health departments, etc. during the period covered by each Leapfrog Safety Grade publication of which You complain (i.e., Fall 2024, Fall 2025, etc.), as well as any complaints received from patients regarding the same.

Plaintiff objects to this Interrogatory because it is overly broad, unduly burdensome, seeks discovery of information that is irrelevant to the claims and defenses in this Action, seeks information that is beyond the scope of Leapfrog's Hospital Survey, and is not reasonably calculated to lead to the discovery of admissible evidence. TLG does not include "all adverse patient events," "citations received from" agencies or payors, or "complaints received from patients" in TLG's determination of its Hospital Safety Grades or request such information in the Hospital Survey, so any such information is irrelevant to whether TLG's actions constitute unfair or deceptive trade practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff also objects to this Interrogatory to the extent it seeks protected health information that HIPAA, among other statutes and regulations, bars Plaintiff from disclosing.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Defendant has agreed to withdraw this Interrogatory.

Interrogatory No. 12: Describe in detail how Your hospital compares nationally on on [sic] any other ranking of patient safety performance, including but not limited to Vizient, Inc., Premier, Inc., HealthTrust Purchasing Group, The Joint Commission, HealthGrades, US News, Newsweek, Statista, Definitive Healthcare, or any other quality benchmarking entity including benchmarking on patient safety including on adverse events and on healthcare-acquired infections.

Plaintiff objects to this Interrogatory's request that Plaintiff "[d]escribe in detail how Your hospital compares nationally" based on undisclosed "benchmarking" as vague and confusing. To the extent this Interrogatory seeks the top-line rankings of the identified organizations, Plaintiff objects to this Interrogatory because such information is publicly and equally available to TLG.

To the extent this Interrogatory asks Plaintiff to compare itself to the named and unnamed entities, that request is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Other organizations' rankings have nothing to do with the claims and defenses in this case related to the Deceptive Score Categories or TLG's decision to use deceptive business practices.

Answer: Subject to the foregoing objections, Plaintiff has received numerous awards and accolades, including many that are directly relevant to patient care for the community we serve. As a full-service cancer hospital, it is important to Plaintiff that it is accredited by the Commission on Cancer (CoC). In order to be accredited, Plaintiff had to undergo an on-site visit on a triennial basis, in which a trained CoC reviewer visited Plaintiff and reviewed its required cancer program activity documentation to ensure compliance with the standards.

The American College of Surgeons has designated Plaintiff a National Accreditation Program for Breast Centers for 13 years in a row. The American College of Radiology designated Plaintiff a Breast Imaging Center of Excellence, which it received only after accomplishing the highest level of care in breast imaging, including being committed to patients, providers, and payers. Plaintiff has been accredited as a Comprehensive Center by the Metabolic and Bariatric Surgery Accreditation and Quality Improvement Program, a joint Quality Program of the American College of Surgeons and the American Society for Metabolic and Bariatric Surgery.

Plaintiff is accredited by the Joint Commission, the nation's largest hospital accreditor that evaluates hospitals' quality performance standards through an objective evaluation process. Plaintiff has also been accredited by Joint Commission for specialization certifications for Gold

Seal of Approval for Total Hip and Knee Replacement, Shoulder Replacement and Spine Surgery—certification designed for hospitals providing the critical elements to achieve long-term success in improving critical medical outcomes—which signifies our services have delivered evidence-based proof of clinical quality sought by patients and payers alike. The entities that award and assign these accreditations and certifications visit the healthcare facility and perform regular periodic in-person reviews, audits surveys and assessments of the facility.

Plaintiff has also recently received the Florida Department of Health and Florida Agency for Health Care Administration Excellence for Maternal Care Award, which highlights hospitals that surpass Florida Department of Health’s goal of reducing the rate of C-sections among first-time mothers with low-risk pregnancies. Plaintiff was recognized by BlueCross BlueShield with a Blue Distinction Centers for Bariatric Surgery designation, as part of the Blue Distinction Specialty Care program, and for Knee and Hip Replacement. Plaintiff earned this recognition by providing a full range of bariatric surgical care services, including inpatient care, postoperative care, follow-up, and patient education that operate to standards set by BlueCross BlueShield, in partnership with physician experts and medical organizations. Aetna has also designated Plaintiff as an Aetna Institute of Quality orthopedic facility for total joint replacement and spine surgery, which it earned by consistently delivering safe and effective orthopedic care.

Healthgrades has awarded Plaintiff numerous Healthgrades accolades. To assess and evaluate hospitals, Healthgrades relies on data from Medicare medical claims records and states’ data on Medicare and commercially insured patient outcomes to determine patients’ actual clinical outcomes when visiting a given hospital. Plaintiff also received several awards from Healthgrades for various specialties, including:

a. Labor and Delivery

- i. Five-Star Recipient for C-Section Delivery for four years in a row (2022-2025)
- ii. Five-Star Recipient for Vaginal Delivery for 12 years in a row (2014-2025)

b. Outpatient Orthopedic

- i. Five-Star Recipient for Outpatient Back and Neck Surgery (except Spinal Fusion) (2025)
- ii. Recipient of the Healthgrades Outpatient Orthopedic Surgery Excellence Award (2025)

c. Spine Surgery

- i. Five-Star Recipient for Spinal Fusion
- ii. Recipient of the Healthgrades America's 100 Best Hospitals for Spine Surgery Award (2025)
- iii. Top 10% in the Nation for Spine Surgery (2025)
- iv. Recipient of the Healthgrades 2025 Spine Surgery Excellence Award

d. Gastrointestinal

- i. Five-Star Recipient for Treatment of Gastrointestinal Bleed (2024)

In addition, Plaintiff will produce and identify documents reflecting some of Plaintiff's rankings from other organizations.

Amended Answer: Subject to the foregoing objections, Plaintiff has received numerous awards and accolades. For example, Plaintiff has been accredited by the Commission on Cancer (CoC) for 31 years. The American College of Surgeons has designated Plaintiff a National

Accreditation Program for Breast Centers for 13 years in a row. The American College of Radiology designated Plaintiff a Breast Imaging Center of Excellence. Plaintiff has been accredited as a Comprehensive Center by the Metabolic and Bariatric Surgery Accreditation and Quality Improvement Program, a joint Quality Program of the American College of Surgeons and the American Society for Metabolic and Bariatric Surgery. Plaintiff received the American Heart Association Stroke Gold Plus award for 2025.

Plaintiff is accredited by the Joint Commission. Plaintiff has also been accredited by Joint Commission for specialization certifications for Gold Seal of Approval for Total Hip and Knee Replacement, Shoulder Replacement and Spine Surgery.

Plaintiff has also recently received the Florida Department of Health and Florida Agency for Health Care Administration Excellence for Maternal Care Award. Plaintiff was recognized by BlueCross BlueShield with a Blue Distinction Centers for Bariatric Surgery designation, as part of the Blue Distinction Specialty Care program, and for Knee and Hip Replacement. Aetna has also designated Plaintiff as an Aetna Institute of Quality orthopedic facility for total joint replacement and spine surgery.

Healthgrades has awarded Plaintiff numerous Healthgrades accolades. Plaintiff also received several awards from Healthgrades for various specialties, including:

a. Labor and Delivery

- i. Five-Star Recipient for C-Section Delivery for four years in a row (2022-2025)
- ii. Five-Star Recipient for Vaginal Delivery for 12 years in a row (2014-2025)

b. Outpatient Orthopedic

- iii. Five-Star Recipient for Outpatient Back and Neck Surgery (except Spinal Fusion) (2025)
- iv. Recipient of the Healthgrades Outpatient Orthopedic Surgery Excellence Award (2025)

c. Spine Surgery

- i. Five-Star Recipient for Spinal Fusion
- ii. Recipient of the Healthgrades America's 100 Best Hospitals for Spine Surgery Award (2025)
- iii. Top 10% in the Nation for Spine Surgery (2025)
- iv. Recipient of the Healthgrades 2025 Spine Surgery Excellence Award

d. Gastrointestinal

- i. Five-Star Recipient for Treatment of Gastrointestinal Bleed (2024)

In addition, Plaintiff will produce and identify documents reflecting some of Plaintiff's rankings from other organizations.

Also, Plaintiff does not participate in Vizient and has not done so during the Relevant Time Period.

Interrogatory No. 13: Describe any steps taken by Your hospital to improve any and all of the patient safety measures considered by Leapfrog's Hospital Safety Grade (as set forth on Leapfrog's published scoring methodology documents; see ECF No. 21-3 at 6-10; ECF No. 21-43 at 6-9), before and after each Safety Grade publication of which You complain.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of Plaintiff's improvements to "any and all" patient safety measures considered by Leapfrog's Hospital Safety

Grade. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks information on metrics other than TLG's Deceptive Score Categories and to the extent it seeks information that is beyond the scope of Leapfrog's Hospital Survey.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objection, Plaintiff is committed to continual improvement of patient safety measures, motivated by our commitment to ensuring the best possible patient safety—not chasing the best possible Leapfrog grade. To achieve this core objective, Plaintiff devotes significant time and resources to improving its delivery of the highest possible quality of care for those in the community it serves, including efforts to improve its performance in areas related to the four metrics Plaintiff has chosen to impute in its survey.

Plaintiff monitors its BCMA rate, but the rate is already nearly 100%, so there is very little scope for improvement. Plaintiff consistently tracks CPOE and hand hygiene. For CPOE, Plaintiff trains new hires one-on-one on how to implement CPOE properly, meets with providers to address any barriers, shares compliance reports with individual providers, and clinical informatics educators visit physicians' offices to address any access issues. Plaintiff also trains new hires in proper compliance with Plaintiff's hand hygiene policy and requires annual continuing education on it. Plaintiff surveils hand hygiene compliance monthly and provides real time education on the importance of hand hygiene. Compliance with Plaintiff's hand hygiene policy is also reviewed at periodic committee meetings, and leadership shares data with staff and holds them accountable for the results.

Plaintiff already has 24/7 ICU coverage for its intensivist unit and has had that coverage for several years, so it does not need to track this metric.

Interrogatory No. 14: State whether You are aware of specific patients who have relied on the Leapfrog Safety Grade in declining to receive healthcare services at Your hospital. In so answering, identify the individual patient that declined to receive services, the date of such declination, the type of service the patient declined to receive, the medium for the communication from the patient (i.e. telephone, video conference, email, letter, etc.), the content of the communication, and the reason given for the stated decision.

Plaintiff objects to this Interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Answer: Subject to the foregoing objection, Plaintiff has received reports that patients considered or decided not to use Plaintiff's facility because of TLG's misleading grades.

Amended Answer: Subject to the foregoing objection, since the release of TLG's false and misleading grades, Plaintiff has received numerous reports from doctors that patients considered or decided not to use Plaintiff's facility due to concerns related to TLG's misleading grades.

Interrogatory No. 15: Describe any effort Your hospital has made to influence public perception of Your hospital's performance on patient safety following the publication of the Leapfrog Safety Grade.

Plaintiff objects to this Interrogatory as vague and ambiguous because it does not specify which Leapfrog Safety Grade is at issue. Plaintiff will construe this Interrogatory to reference TLG's deceptive Safety Grades beginning in Fall 2024. Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks "any effort" Plaintiff "has made to influence public perception" after the release of TLG's

deceptive and unfair Safety Grades because there have been many such “efforts” and those “efforts” are ongoing given the significant harm caused by TLG’s deceptive and unfair business practices.

Answer: Subject to the foregoing objections, Plaintiff continues to influence public perception by, among other things, delivering the highest quality care to the community it serves, which, as discussed in response to Interrogatory 12, has led to numerous awards, accreditations, and accolades. In addition, several public statements disputing the misleading nature of the Safety Grade have been made on Plaintiff’s behalf.

Supplemental Answer: In addition to the above, members of hospital leadership have communicated with patients, doctors, or community members on a regular basis to dispel the misleading nature of the Leapfrog Safety Grades. For instance, Plaintiff communicated its governing board, its medical executive committee, department directors, physicians and nurses, and patients when asked about the Safety Grades or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grades for Plaintiff’s hospital. The Palm Beach Health Network also issued a press release and has engaged in marketing efforts, including through social media, to counteract TLG’s deceptive scores on behalf of Plaintiff and other affected members of the network. Plaintiff also engaged in email discussions about TLG’s misleading grades, either as sender or recipient, which TLG has through Plaintiff’s production of documents.

Interrogatory No. 16: Describe the due diligence Your hospital undertakes to ensure the accuracy of its own publicly reported safety data (including but not limited to data submitted to CMS, the CDC, and third party organizations).

Plaintiff objects to this Interrogatory as vague and ambiguous due to its use of the undefined term “due diligence.” Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Any “due diligence” Plaintiff performs when reporting to *third parties* has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices, especially when TLG does nothing to ensure the accuracy of information that hospitals that participate in its survey self-report.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objections, Plaintiff makes reasonable efforts to ensure the accuracy of the data it reports to third-party organizations. For instance, Plaintiff employs data abstractors, quality coordinators and a Quality Director, who are all responsible for abstracting, validating, and submitting safety data.

Interrogatory No. 17: Describe in detail how You communicate to the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System the outcome of any and all healthcare safety ratings, evaluative publications, studies, or performance analyses that Your Hospital receives.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff’s communication, if any, with the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System, all non-parties to this litigation, has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objection, Plaintiff communicates with Tenet stakeholders, including employees who work to support the Palm Beach Health Network, on a range of matters, including issues related to patient safety and outcomes and in particular related to TLG and the Safety Grades by email and oral communication. Those communications included discussions about the reasons for particular grades, the method used to calculate Safety Grades, the value of Safety Grades, and responses to the Safety Grades. In addition, identified below are documents Plaintiff produced evidencing communications between the Plaintiff Hospitals and Tenet related to TLG, the Leapfrog survey, and Safety Grades.

Start Page	End Page
PBHN000006509	PBHN000006513
PBHN000005132	PBHN000005137
PBHN000002076	PBHN000002078
PBHN000005043	PBHN000005050
PBHN000005060	PBHN000005068
PBHN000006397	PBHN000006401
PBHN000002090	PBHN000002094
PBHN000002095	PBHN000002102
PBHN000002071	PBHN000002071
PBHN000005083	PBHN000005085

PBHN000004562	PBHN000004563
PBHN000004564	PBHN000004564
PBHN000004574	PBHN000004581
PBHN000004556	PBHN000004556
PBHN000004565	PBHN000004569
PBHN000004704	PBHN000004704
PBHN000004715	PBHN000004719
PBHN000005036	PBHN000005042
PBHN000005138	PBHN000005140
PBHN000006465	PBHN000006466

Discovery is ongoing, and Plaintiff reserves the right to amend, modify or supplement the response to this Interrogatory.

Interrogatory No. 18: State whether the compensation of Your Chief Executive Officer or any other executive-level leadership officers is tied to or related in any way to Your hospital's performance on patient safety, union worker contracts or Your hospital's ratings by third party ratings organizations' ratings publications (including but not limited to the Leapfrog Hospital Safety Grade).

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff's method of compensating its Chief Executive Officer and other executive-level leadership **has nothing to do with the** claims and defenses in this case related to TLG's decision to use deceptive business practices.

Answer: TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objection, Plaintiff's performance on patient safety, union worker contracts, or ratings by third party ratings organizations' ratings publications is related in some way to the compensation of Plaintiff's Chief Executive Officer or other executive-level leadership officer(s).

Interrogatory No. 19: Identify all hospitals, medical centers, or healthcare systems that you consider to be your direct competitors within the relevant geographic market during the time period covered by the Complaint and describe in detail the criteria you use to determine whether another hospital or healthcare provider is a competitor.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. The identity of Plaintiff's competitors and "the criteria" used to determine whether a hospital or provide is a competitor has nothing to do with the claims and

defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff also objects to this Interrogatory to the extent it seeks confidential, proprietary information, and commercially sensitive information related to Plaintiff's scoring system and "criteria" used to determine whether a hospital or provide is a competitor.

Answer: Subject to the foregoing objections and on condition that this response is considered "Confidential" under the forthcoming agreed confidentiality order, HCA Florida JFK Hospital, HCA Florida Palms West Hospital, Jupiter Medical Center, and Wellington Regional Medical Center are Plaintiff's competitors. Plaintiff considers these hospitals competitors because of their proximity to Plaintiff, their competing services lines, and that patients within Plaintiff's service area go to these hospitals for medical care.

Supplemental Answer: Cleveland Clinic and NYU Langone are also Plaintiff's competitors.

Interrogatory No. 20: State and describe the results of any market analysis, competitive analysis, or consumer perception surveys you have conducted or commissioned regarding your competitors from 2020 to present, and identify the individuals or entities that prepared or participated in such analyses.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not is not proportional to the needs of this Action. The results of any market analysis, competitive analysis, or consumer perception surveys and the identity of those who prepared or participated in such analyses has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Plaintiff further objects to this Interrogatory to the extent it requests information from outside of the relevant time period of January 1, 2023, to present. Plaintiff also objects to this Interrogatory as unduly burdensome to the extent it asks Plaintiff to “state and describe” various market analysis.

As agreed during the parties’ meet and confer on September 3, 2025, Plaintiff will produce documents showing the results of studies or surveys Plaintiff has conducted or commissioned related to internal market analysis, competitive analysis, or consumer perception. Plaintiff will identify the documents responsive to this Interrogatory by Bates number in Plaintiffs’ production cover letter.

Interrogatory No. 21: Identify with specificity any comments or concerns raised by any third party payor, bank or lender, or investor related to Your hospital’s reputation and/or public perception on issues in any way involving patient safety or satisfaction.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not proportional to the needs of this case to the extent it seeks “comments and concerns” from third parties related generally to Plaintiff’s reputation that has nothing to do with the specific and significant reputational harm caused by TLG’s misleading grades.

Answer: Subject to the foregoing objections, Plaintiff will produce and identify documents related to the significant reputational harm caused by TLG’s deceptive and unfair Safety Grades that provide sufficient detail to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objections, Plaintiff is unaware of any documents related to this Interrogatory.

Interrogatory No. 22: Identify and describe any complaints, concerns, or comments from patients, community members, or referring physicians that relate to the hospital's reputation or comparisons to other hospitals in the region.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not proportional to the needs of this Action to the extent it seeks "comments and concerns" from patients, community members, or referring physicians that have nothing to do with the significant reputational harm caused by TLG's misleading grades. Plaintiff also objects to this interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to the agreed protective order entered by this Court.

Answer: Subject to the foregoing objections, Plaintiff has received reports that patients and physicians considered or decided not to use Plaintiff's facility because of TLG's misleading grades.

Amended Answer: Subject to the foregoing objections, Plaintiff has received reports that patients and physicians considered or decided not to use Plaintiff's facility because of TLG's misleading grades. In addition, concerns have been raised by patients, doctors, staff, and community members, and Plaintiff is aware of false and misleading statements based on TLG's false and misleading methodology and Safety Grades made in newspapers, viral social-media videos, television programs, and blogs.

Our Medical Executive Committee has received direct inquiries from patients regarding their concerns as TLG's grades and related public reports. Our Chief Nursing Officer reported that a nursing candidate questioned the quality of care of the hospital in her interview for a job opening.

Patients have asked independent physicians that use both our facilities and those of Jupiter Medical Center (a nearby hospital) to schedule their surgeries at Jupiter Medical Center and not at ours. Those patients chose not to use our hospital specifically because of the Leapfrog grades. These independent surgeons have told us that they believe TLG has misled these patients about the quality of the Medical Center. The harm caused by TLG's false and misleading Safety Grade is ongoing.

In addition, the following produced documents evidence such harm.

Start Page	End Page
PBHN000006771	PBHN000006773
PBHN000002082	PBHN000002085
PBHN000002066	PBHN000002070
PBHN000002076	PBHN000002078
PBHN000002615	PBHN000002617
PBHN000005016	PBHN000005021
PBHN000005022	PBHN000005028
PBHN000005043	PBHN000005050
PBHN000005060	PBHN000005068
PBHN000005169	PBHN000005175
PBHN000006397	PBHN000006401

PBHN000002090	PBHN000002094
PBHN000002095	PBHN000002102
PBHN000004484	PBHN000004484
PBHN000004564	PBHN000004564
PBHN000004574	PBHN000004580
PBHN000004557	PBHN000004557
PBHN000005138	PBHN000005140
PBHN000008718	PBHN000008718
PBHN000002079	PBHN000002081
PBHN000006461	PBHN000006462
PBHN000008914	PBHN000008914
PBHN000008915	PBHN000008915

Discovery is ongoing, and Plaintiff reserves the right to amend, modify or supplement the response to this Interrogatory.

Interrogatory No. 23: List with specific detail each and every concern, complaint or comment made by any union, collective bargaining unit or employee association in any way related to patient safety at Your hospital.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “each and every concern, complaint or comment ” from third parties that have nothing to do with the significant reputational harm caused by TLG’s misleading grades. Plaintiff also objects to this Interrogatory to the extent it seeks health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to the agreed protective order entered by this Court.

Answer: Subject to the foregoing objections, Plaintiff is unaware of any concern, complaint or comment regarding TLG deceptive scores made by the union at Plaintiff’s hospital.

Amended Answer: Subject to the foregoing objections, Plaintiff is unaware of any concern, complaint, or comment regarding TLG’s deceptive scores or regarding patient safety made by the union at Plaintiff’s hospital.

Interrogatory No. 24: Identify any and all criticism You have received since 2020 from Tenet Healthcare Corporation and/or from any individual executive of Tenet Healthcare Corporation regarding Your hospital’s performance in any way.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Any so-called “criticism” has nothing to do with the claims and defenses related to TLG’s decision to use deceptive business practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Amended Answer: As discussed during the parties' meet and confer on September 3, 2025, TLG agreed to narrow this Interrogatory to concern only "criticism...regarding Your hospital's patient safety." After a reasonable and diligent search, Plaintiff is unaware of having received "criticism" from Tenet Health Corporation regarding patient safety. Plaintiff is always working to improve its performance, quality, and safety in a constructive way and engages with Tenet Health Corporation as needed to ensure Plaintiff provides the best patient care possible.

Dated: September 8, 2025

Respectfully submitted,

By: /s/ Lee R. Crain

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*Attorneys for Good Samaritan Medical Center,
Inc.*

CERTIFICATE OF SERVICE

This is to certify that true and correct copies of Plaintiff's Amended and Supplemented Responses and Objections to Defendant The Leapfrog Group's First Sets of Interrogatories to Plaintiff have been served on counsel for The Leapfrog Group by electronic transmission.

/s/ Lee R. Crain
Lee R. Crain

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.

**AFFIDAVIT OF SHERI MONTGOMERY IN SUPPORT OF
PLAINTIFF GOOD SAMARITAN MEDICAL CENTER, INC.'S
AMENDED AND SUPPLEMENTED RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP'S FIRST SET OF
INTERROGATORIES TO GOOD SAMARITAN MEDICAL CENTER, INC.**

I, Sheri Montgomery, declare as follows:

1. I am over 21 years of age and competent to give this testimony.
2. I am the Chief Executive Officer of Good Samaritan Medical Center, Inc. ("Plaintiff"). I am the corporate representative of Plaintiff for the purpose of answering Defendant The Leapfrog Group's First Set of Interrogatories to Good Samaritan Medical Center, Inc. I have read the foregoing interrogatories and the answers to those interrogatories, which are true according to the best of my knowledge, information, and belief.
3. I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 8, 2025.


Sheri Montgomery

EXHIBIT 4B

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.

**PLAINTIFF DELRAY MEDICAL CENTER, INC.’S
AMENDED AND SUPPLEMENTED RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP’S FIRST SET OF
INTERROGATORIES TO DELRAY MEDICAL CENTER, INC.**

Pursuant to Federal Rules of Civil Procedure 26 and 33 and the *Pretrial Scheduling Order and Order Referring Case to Mediation* (ECF No. 36) (the “Pretrial Scheduling Order”), Plaintiff Delray Medical Center, Inc. (“Plaintiff” or “Delray”), by and through its undersigned counsel, hereby submit its amended and supplemented responses and objections (“Responses”), to Defendant The Leapfrog Group’s (“TLG”) First Set of Interrogatories, dated July 11, 2025 (the “Interrogatories” and each numbered interrogatory, an “Interrogatory”) in the above-captioned action (the “Action”).

Plaintiff’s Responses to the Interrogatories are made solely for purposes of this Action and to the best of Plaintiff’s present knowledge, information, and belief regarding the matters about which inquiry have been made. Discovery is ongoing, and Plaintiff reserves the right to amend, supplement, clarify, or further explain its Responses at any time prior to the trial in

this Action. Plaintiff further reserves the right to raise any additional objections deemed necessary or appropriate in light of any further review.

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. Plaintiff objects to the definition of terms “Plaintiffs” and “Plaintiff Hospitals” as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it seeks to require Plaintiffs to respond on behalf of entities or individuals other than themselves.

2. Plaintiff objects to the definition of the terms “Delray,” “Delray Medical Center,” “Plaintiff,” “You,” and “Your” to the extent each term seeks to require Plaintiff to respond on behalf of entities or individuals other than itself, including on behalf of agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

3. Plaintiff objects to the definition of the terms “Tenet Healthcare” and “Tenet” to the extent it seeks to require Plaintiff to respond on behalf of entities or individuals other than itself, including on behalf of Tenet, Tenet’s agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

4. Plaintiff objects to the definition of “identify, when referring to a person,” as overbroad and unduly burdensome to the extent it calls for the “address” and “present or last-known employer” of identified individuals. Such information is overbroad and beyond the scope of permissible discovery.

5. Plaintiff objects to the instruction that the relevant time period for the Interrogatories begins on January 1, 2020. Plaintiff will apply to each Interrogatory the time period

of November 1, 2023 to present (the “Relevant Time Period”). Any response to an Interrogatory that provides information that falls outside of the Relevant Time Period should not be construed as an admission that the Relevant Time Period begins prior to November 1, 2023.

SPECIFIC RESPONSES TO INTERROGATORIES

Interrogatory No. 1: State the full name, address, job title or position, and hospital or employer affiliation of all individuals that assisted with responding to these interrogatories.

Answer: The following individuals assisted with responding to these Interrogatories.

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Heather Havericak	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Chief Executive Officer	Delray Medical Center
Regina West	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Market Quality Director	Palm Beach Health Network and St. Mary's Medical Center

Interrogatory No. 2: Identify every individual not identified in Your Rule 26(a) initial disclosures with knowledge of facts pertaining to the allegations in Your Complaint in this Lawsuit (and any subsequent amendments) and/or whom You believe may have discoverable knowledge, information or data regarding this matter, including those who You expect to call as a fact or opinion witness at any hearing in this proceeding or whose testimony (by affidavit, deposition or testimony) You intended to submit in connection with this proceeding, and the substance of his/her testimony or affidavit, and, with respect to each person identified, provide:

- A. full name,
- B. address,
- C. telephone number,
- D. job title or position,
- E. hospital or employer affiliation,
- F. and describe in detail the facts possessed by each such person.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of “every individual...with knowledge” or who “may have discoverable knowledge, information or data regarding this matter.” Plaintiff will not provide more than the identity of individuals most likely to have knowledge regarding this matter. Plaintiff further objects to this Interrogatory as premature because it requests disclosure of Plaintiff’s witnesses for hearings and the substance of witness testimony before such disclosure is required under applicable law or the Pretrial Scheduling Order. Plaintiff will submit its trial witness list on October 2, 2025, per the Pretrial Scheduling Order, and disclose any other witnesses and witness testimony as further ordered by the Court or otherwise required by applicable law. Plaintiff also objects to this Interrogatory’s request for the identity of “opinion witness[es]” as vague, since witnesses are either “fact” or “expert” witnesses. Plaintiff will interpret “opinion witness” to mean “expert witness.” Plaintiff submitted expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Answer: Subject to the foregoing objection, Plaintiff will amend its Rule 26(a)(1) Initial Disclosures to identify additional individuals who may have knowledge of facts pertaining to the allegations in the Complaint.

Amended Answer: In addition to those disclosed in Plaintiff’s supplemental disclosures, the following individuals may have relevant factual knowledge:

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Regina West	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Market Quality Director	Palm Beach Health Network and St. Mary’s Medical Center

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Stephany Johnson	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Quality Director	Delray Medical Center

In addition to the individuals identified above, persons identified in documents produced in this dispute have knowledge of facts pertaining to the allegations in the Amended Complaint. *See* Fed. R. Civ. P. 33(d). Discovery is ongoing, and Plaintiff reserves the right to supplement, amend, correct, clarify, or modify this Response as further information becomes available.

Interrogatory No. 3: Describe in detail all factual bases for Your contention that Leapfrog’s published Safety Grade for Your hospital was false, inaccurate, misleading, deceptive, or unfair. In so answering, identify with particularity each measure, data point, or metric that You contend was inaccurately reported, calculated, or misrepresented by Leapfrog in calculating the Safety Grade for Your hospital.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all factual bases” for Plaintiff’s contention. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure: Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory as premature to the extent it requests that Plaintiff “[d]escribe in detail all factual bases” to support its contention. *In re Reliance Fin. & Inv. Grp., Inc.*, 2006 WL 8435541, at *4 (S.D. Fla. Feb. 14, 2006) (Contention interrogatories “are more appropriately used after a substantial amount of discovery has been conducted--typically, at the end of the discovery period.”). Plaintiff also objects to this

Interrogatory to the extent it attempts to limit or mischaracterize Plaintiff's claim as just challenging the false, inaccurate, misleading, deceptive, or unfair nature of TLG's Safety Grade. As the Court explained in its order denying TLG's motion to dismiss, the core of the Complaint is "a challenge to Defendant's representations about its methodology, which they claim mislead consumers by failing to distinguish between absent data and damning data, and professing that grades are not influenced by a hospital's lack of survey participation." *Order on Motion to Dismiss* 6 (ECF No. 41). Plaintiff also challenges the provably false facts and deceptive scoring system underlying these grades, which TLG admits it relies on to arrive at its deceptive Safety Grades.

Subject to the foregoing objections and as more fully stated in the *Amended Complaint* (ECF No. 74) ("Complaint"), TLG has engaged in deceptive and unfair business practices and misrepresentations when issuing the Safety Grade for Plaintiff's hospital as part of TLG's annual "Hospital Survey." TLG posts these Safety Grades online at hospitalsafetygrade.org.

To arrive at these Safety Grades, TLG uses CMS data, survey responses from participating hospitals, and other supplemental data sources. For participating hospitals, TLG uses the hospitals' self-reported responses to the Hospital Survey for 12 of the 22 measures. For non-participating hospitals, TLG uses other sources for those 12 measures. For the remaining four measures—Computerized Physician Order Entry, Bar Code Medication Administration, ICU Physician Staffing, and Hand Hygiene Score (the "Deceptive Score Categories")—TLG devised and uses a so-called "imputation model." Prior to Fall 2024, TLG's imputation model assigned non-participating hospitals a score based on the average score applicable to a similarly situated hospital. Beginning in Fall 2024, TLG modified its imputation model. TLG now assigns the lowest possible score to non-participating hospitals, which has the effect of punishing non-participating hospitals and artificially deflating their Safety Grades. TLG has even admitted the changes in Fall 2024

were designed to penalize non-participating hospitals. TLG also misleads consumers about how it grades hospitals, stating “[t]he Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the [TLG] Hospital Survey.” *Declaration of Lee Crain* (ECF No. 21) (“Crain Decl.”), Ex. 1 at 4 (“Frequently Asked Questions About the Leapfrog Hospital Safety Grade”).

As TLG explains, “not all hospitals have enough data publicly available to be eligible for a grade.” Crain Decl. Ex. 1 at 5. “As per the National Expert Panel guidance, [TLG] has requirements for the minimum amount of data [it] need[s] to issue an accurate grade.” Crain Decl. Ex. 1 at 5. According to TLG, “[h]ospitals missing more than six process measures” are “not graded.” Crain Decl. Ex. 2 at 6. Non-participating hospitals should fall easily into that “not graded” bucket, because their decision not to participate in TLG’s survey necessarily means TLG is missing seven process measures that rely on voluntary submission of hospital data.¹

TLG then deceptively conceals how it makes up grades for the four “imputation” measures and even suggests on its website that TLG *does* have data sufficient to score TLG on those four measures. By way of example, TLG acknowledges that Plaintiff “Declined to Report” information in response to questions about “Staff work[ing] together,” but then tells consumers—as if it were a fact—that Plaintiff is “Worse Than Average” on “Handwashing,” “Communication,” “medication administration,” and the like—even though TLG has no basis whatsoever to adopt those conclusions. Crain Decl. Ex. 32 at 2. TLG itself says handwashing is among the “most important” measures in its survey, Crain Decl. Ex. 15 at 4, yet it deceptively conceals that it has no data with which to grade the Plaintiff hospital on that measure. *Defendant The Leapfrog*

¹ Those seven include CPOE, BCMA, IPS, Safe Practice 1: Culture of Leadership Structures and Systems; Safe Practice 2: Culture Measurement, Feedback & Intervention; Total Nursing Care Hours per Patient Day; and Hand Hygiene.

Group's Responses to Plaintiffs' Requests for Production at 7 ("Leapfrog is not itself in possession of data showing Plaintiffs' performance on the 'imputed metrics' considered by the methodology.")). Of course, Plaintiff in fact has a comprehensive and thorough handwashing policy. And had Plaintiff merely filled out TLG's survey, it would have received a full two letter grades higher on TLG's score. *Expert Report of Professor Sean Nicholson* (Aug. 7, 2025), Ex. 6.

Based on the foregoing, and as more fully set forth in the Complaint, TLG engages in deceptive trade practices by, among other things, deceiving consumers about its grading methods by implying that Plaintiff has failed on certain measures that, in truth, TLG has no data or other basis to evaluate; deceiving consumers by telling them the Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the Hospital Survey; deceiving consumers when it represents that it does not grade hospitals if it lacks sufficient data, when, in truth, it does grade hospitals by "imputing" or making up a grade for the Deceptive Score Categories; hiding the truth about its "imputation model" from consumers by burying it in fine print on a separate website; punishing non-participating hospitals by "imputing" scores, which artificially deflate a hospital's Safety Grade; and favoring participating hospitals. Additional factual bases for the Plaintiff's claims are presented in the Complaint.

Interrogatory No. 4: Describe the scoring or grading methodology You believe Leapfrog should have used to assess Your hospital's patient safety performance and explain why that method would yield a different result.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff's provision of an alternative scoring or grading methodology has nothing to do with the claims and defenses in this case related to TLG's

decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it calls for speculation.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objections, Plaintiff responds that TLG should use a scoring system that is not unfair or deceptive. By way of example only, TLG could decline to grade hospitals that do not participate in TLG's survey, because their decision not to participate means TLG is missing seven process measures that rely on voluntary submission of hospital data. This would yield a different result, because the hospitals would not receive a grade at all. TLG's methodology certainly should not affirmatively assign an arbitrary low score to a particular metric just because a hospital does not provide data for that metric.

Interrogatory No. 5: State whether You submitted any data, corrections, or appeals to Leapfrog regarding the Safety Grade Your hospital received, and for each such submission, identify the date of the submission, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the submission, and the content of the submission.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Whether or not Plaintiff submitted "any data, corrections, or appeals to Leapfrog regarding the Safety Grade" Plaintiff hospital received has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Answer: Subject to the foregoing objections, Plaintiff engaged in correspondence prior to the commencement of this case demanding that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, but at every turn TLG refused.

Amended Answer: Subject to the foregoing objections, Plaintiff did not submit any data, corrections or appeals to Leapfrog regarding the Safety Grades it has received.

Interrogatory No. 6: State whether You provided any comment or input in any form during Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade methodology that was proposed for the calculation of Hospital Safety Grades (including but not limited to for the Fall 2024 methodology update). If yes, please identify the date of the comment, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the comment and the content of the comment. If no, please state the reason why You chose not to comment.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Whether or not Plaintiff submitted "any comment or input" in response to TLG's request for public comments has nothing to do with claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Subject to the foregoing objections, Plaintiff did not provide comments in response to Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade scoring system because Plaintiff generally does not respond to requests for public comment from private entities like TLG.

Interrogatory No. 7: Describe all actions Your hospital took in response to (or in deciding not to respond to) its Safety Grade or the Hospital Survey, including internal meetings, media statements, or public relations efforts. In so answering, state the date of the action, the individuals involved in the action and the content of the action.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all actions” Plaintiffs may have taken in response to TLG’s Safety Grades. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, No. 14-81476-CIV, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure: Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Answer: Subject to the foregoing objections, Plaintiff devoted substantial time and resources that could have otherwise been spent continuing to improve patient care to respond to the significant harm and disruption caused by TLG’s deceptive and unfair Safety Grade. Plaintiff’s response included meeting internally with Plaintiff’s leadership team, medical executive committee, and governing board, corresponding with TLG to demand that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, and devoting substantial time and resources to facilitate the preparation and prosecution of this Action.

Amended Answer: Subject to the foregoing objections, Plaintiff devoted substantial time and resources that could have otherwise been spent continuing to improve patient care to respond to the significant harm and disruption caused by TLG’s deceptive and unfair Safety Grades. Plaintiff’s response included meeting internally with Plaintiff’s leadership team, medical executive

committee, and governing board, corresponding through Plaintiff's corporate parent with TLG to demand that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, and devoting substantial time and resources to facilitate the preparation and prosecution of this Action. Plaintiff has also held many phone calls and meetings with physicians and other stakeholders about the TLG grades, explaining how the grades were deceptive and did not accurately reflect the hospital quality and patient safety at Plaintiff.

Interrogatory No. 8: Identify any and all persons, whether internal or external (e.g., patients, vendors, affiliates, parents, agents, partners, media) with whom You communicated in any way with respect to the Safety Grade or the Hospital Survey. In so answering, state the date of the communication, the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.) and the content of the communication.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of "any and all persons, whether internal or external." Plaintiff will disclose the categories of individuals with whom Plaintiff communicated about the Safety Grade or Hospital Survey during the Relevant Time Period. Plaintiff also objects to this Interrogatory to the extent it seeks protected health information that Health Insurance Portability and Accountability Act ("HIPAA"), among other statutes and regulations, bars Plaintiff from disclosing. Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Answer: Subject to the foregoing objections, Plaintiff communicated with the following categories of people regarding the Safety Grade or the Hospital Survey: Plaintiff's governing board, its medical executive committee, department directors, and physicians and nurses when

asked about the Safety Grade or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grade for Plaintiff's hospital. Most of these communications occurred during regularly scheduled meetings, during which attendees were told about TLG's release of the deceptive and unfair Safety Grade, that Plaintiff does not participate in the Hospital Survey because it is unreliable and not an accurate reflection of hospital quality and safety or patient outcomes, and that the Safety Grade, which was not based on any information provided by Plaintiff, was misleading. The Palm Beach Health Network also issued a press release and since then, has engaged in various social networking and other marketing campaigns to counteract TLG's deceptive scores on behalf of Plaintiff and other affected members of the network.

Amended Answer: Subject to the foregoing objections, Plaintiff communicated with the following categories of people regarding the Safety Grade or the Hospital Survey: Plaintiff's governing board, its medical executive committee, department directors, physicians and nurses, and patients when asked about the Safety Grades or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grades for Plaintiff's hospital. Most of these communications occurred during regularly scheduled meetings, during which attendees were told about TLG's release of the deceptive and unfair Safety Grade, that Plaintiff does not participate in the Hospital Survey because it is unreliable and not an accurate reflection of hospital quality and safety or patient outcomes, and that the Safety Grade, which was not based on any information provided by Plaintiff, was misleading. The Palm Beach Health Network also issued a press release and has engaged in marketing efforts, including through social media, to counteract TLG's deceptive scores on behalf of Plaintiff and other affected members of

the network. Plaintiff also engaged in email discussions about TLG's misleading grades, either as sender or recipient, which TLG has through Plaintiff's production of documents.

Interrogatory No. 9: Describe all instances in which a third party declined to contract with, refer patients to, or work with Your hospital, where Leapfrog's grade was cited or discussed. In so identifying list the name of the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.), the date of the communication and the content of the communication.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it requires Plaintiff to "[d]escribe all instances" in which a third party took an action in response to TLG's deceptive grade.

Answer: Subject to the foregoing objection, Plaintiff is not aware of any responsive instances.

Amended Answer:

Subject to the forgoing objection, by way of example, medical professionals have expressed concern about working with the Medical Center due to the grade TLG assigned it.

Interrogatory No. 10: Describe with specificity the basis for each and every category of damage You claim You incurred as a result of the Leapfrog Safety Grade. In so identifying, list each category of damages and the dollar value of each category of damage You claim.

Plaintiff objects to this Interrogatory to the extent it seeks information that is the subject of expert testimony.

Answer: Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Amended Answer: Plaintiff has served the expert report of Thomas Chakurda, which addresses the issue of reputational harm and harm to Plaintiff's goodwill. Plaintiff further objects

to this Interrogatory as overbroad and unduly burdensome to the extent it seeks “each and every” category of claimed damages.

Subject to the foregoing objections and as agreed during the parties’ September 3, 2025 meet and confer, Plaintiff will limit its response to the live non-monetary claims, including injunctive and declaratory relief, to remedy harm to Plaintiff’s reputation and goodwill. Plaintiff’s reputation and goodwill has been damaged by TLG’s false and misleading methodology and resulting Safety Grades. Plaintiff’s claim for reputational harm is based on, among other things, concerns raised by patients, doctors, staff, and community members, as well as false and misleading statements based on TLG’s false and misleading methodology and Safety Grades made in newspapers, viral social-media videos, television programs, and blogs.

By way of example, our Medical Executive Committee has received direct inquiries from patients regarding their concerns as to TLG’s grades and related public reports. Patients have told physicians that they do not want to go to the Medical Center for surgeries after seeing TLG’s grade and associated press reports. Medical professionals have expressed concern about working with the Medical Center due to the grade TLG assigned it. Further, we have received reports from patients and doctors that patients have planned to drive past the Medical Center to a farther away medical facility due to the grade assigned by TLG to the Medical Center. Community members have given negative feedback related to the rating. The harm caused by TLG’s false and misleading Safety Grade is ongoing.

Interrogatory No. 11: Identify all adverse patient events which occurred at Your hospital, including any citations received from regulatory agencies, accrediting agencies, and third party payors such as The Joint Commission, CMS, state health departments, etc. during the period covered by each Leapfrog Safety Grade publication of which You complain (i.e., Fall 2024, Fall 2025, etc.), as well as any complaints received from patients regarding the same.

Plaintiff objects to this Interrogatory because it is overly broad, unduly burdensome, seeks discovery of information that is irrelevant to the claims and defenses in this Action, seeks information that is beyond the scope of Leapfrog's Hospital Survey, and is not reasonably calculated to lead to the discovery of admissible evidence. TLG does not include "all adverse patient events," "citations received from" agencies or payors, or "complaints received from patients" in TLG's determination of its Hospital Safety Grades or request such information in the Hospital Survey, so any such information is irrelevant to whether TLG's actions constitute unfair or deceptive trade practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff also objects to this Interrogatory to the extent it seeks protected health information that HIPAA, among other statutes and regulations, bars Plaintiff from disclosing.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Defendant has agreed to withdraw this Interrogatory.

Interrogatory No. 12: Describe in detail how Your hospital compares nationally on on [sic] any other ranking of patient safety performance, including but not limited to Vizient, Inc., Premier, Inc., HealthTrust Purchasing Group, The Joint Commission, HealthGrades, US News, Newsweek, Statista, Definitive Healthcare, or any other quality benchmarking entity including benchmarking on patient safety including on adverse events and on healthcare-acquired infections.

Plaintiff objects to this Interrogatory's request that Plaintiff "[d]escribe in detail how Your hospital compares nationally" based on undisclosed "benchmarking" as vague and confusing. To the extent this Interrogatory seeks the top-line rankings of the identified organizations, Plaintiff objects to this Interrogatory because such information is publicly and equally available to TLG. To the extent this Interrogatory asks Plaintiff to compare itself to the named and unnamed entities, that request is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is

irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Other organizations' rankings have nothing to do with the claims and defenses in this case related to the Deceptive Score Categories or TLG's decision to use deceptive business practices.

Answer: Subject to the foregoing objections, Plaintiff has received numerous awards and accolades. For example, Plaintiff was awarded the Resuscitation Center of Excellence award for 2025, becoming the first hospital in Palm Beach County to be named a Florida Resuscitation Center of Excellence. To do so, Plaintiff met approximately 15 criteria for patient care that were established by the Florida Resuscitation Center Committee, including intensive neurological monitoring, strong collaboration with Emergency Medical Services partners, and community outreach programs to promote health and lifestyle modifications to decrease the prevalence of cardiac disease. Additionally, the American College of Surgeons awarded Plaintiff the Metabolic and Bariatric Surgery Accreditation and Quality Improvement Program ("MBSAQIP") Surgery Center of Excellence award, which is dedicated to enhancing the safety and quality of care for bariatric patients in the United States and Canada. MBSAQIP accreditation promotes uniform standards and continuous quality improvement.

Plaintiff also earned DNV GL Comprehensive Stroke certification, which means Plaintiff gives the highest quality of care to most complete patient cases and offers evidence-based treatments with cutting-edge research protocols. Additionally, Plaintiff earned the VQI (Vascular Quality Initiative) Carotid Care Champion this year, which honors participants that are dedicated to improving the safety and effectiveness of vascular care. Plaintiff is also accredited by the Joint Commission, the nation's largest hospital accreditor that evaluates hospitals' quality performance standards through an objective evaluation process. Plaintiff also earned a Certification for the

American Association of Cardiovascular and Pulmonary Rehabilitation Program. This accreditation is peer-reviewed and designed to review individual facilities.

The American Heart Association honored Plaintiff with “Get with the Guidelines” Gold Plus awards in three specializations. First, Plaintiff earned the Target Stroke Honor Roll Elite, meaning Plaintiff is able to achieve door-to-needle times of within 60 minutes for at least 85% of applicable patients. Second, Plaintiff earned the Target Stroke Honor Roll Advanced Therapy, meaning that 50% of applicable patients are able to achieve door-to-device times of 90 minutes or less in the case of directly arriving patients, and 60 minutes or less for transfer patients. Third, Plaintiff earned the Target Type II Diabetes Honor Roll, meaning that Plaintiff met numerous requirements, including qualifying for a Silver level or higher Achievement Award in the “Get with the Guidelines-Heart Failure, Stroke, and/or Coronary Artery Disease” modules. The entities that award and assign these accreditations and certifications visit the healthcare facility and perform regular periodic in-person reviews, audits, surveys, and assessments of the facility.

In 2025, the medical ranking organization Healthgrades named Plaintiff one of the top 250 hospitals in the country. To assess and evaluate hospitals, Healthgrades relies on data from Medicare medical claims records and states’ data on Medicare and commercially insured patient outcomes to determine patients’ actual clinical outcomes when visiting a given hospital. Healthgrades also assigned Plaintiff the following awards:

a. Cardiac Care

- i. Five-Star Recipient for Valve Surgery (2024-2025, two years in a row)
- ii. Five-Star Recipient for Treatment of Heart Attack (2024-2025, two years in a row)

- iii. Five-Star Recipient for Treatment of Heart Failure (2003-2025, 23 years in a row)
- iv. Five-Star Recipient for Defibrillator Procedures (2024-2025, two years in a row)
- v. Five-Star Recipient for Treatment of Stroke (2008-2025, 18 years in a row)
- vi. Five-Star Recipient for Coronary Interventional Procedures (2024)

b. Pulmonary Care

- i. One of Healthgrades America's 100 Best Hospitals for Pulmonary Care in 2025
- ii. Recipient of the Healthgrades 2025 Pulmonary Care Excellence Award
- iii. Top 5% in the Nation for Overall Pulmonary Services (2025)
- iv. Top 10% in the Nation for Overall Pulmonary Services (2025)
- v. Five-Star Recipient for Treatment of Pneumonia (2024-2025, two years in a row)

c. Critical Care

- i. Recipient of the Healthgrades 2025 Critical Care Excellence Award
- ii. Top 5% in the Nation for Critical Care (2025)
- iii. Top 10% in the Nation for Critical Care (2025)
- iv. Five-Star Recipient for Treatment of Sepsis (2004-2025, 22 years in a row)
- v. Five-Star Recipient for Treatment of Respiratory Failure (2023-2025, three years in a row)

d. Gastrointestinal

- i. Five-Star Recipient for Upper Gastrointestinal Surgery (2022-2024, three years in a row)
- ii. Five-Star Recipient for Small Intestine Surgeries (2017-2021 (five years in a row), 2024)

e. Neurosurgery

- i. Five-Star Recipient for Cranial Neurosurgery (2024)

In addition, Plaintiff will produce and identify documents reflecting some of Plaintiff's rankings from other organizations.

Amended Answer: Subject to the foregoing objections, Plaintiff has received numerous awards and accolades. For example, Plaintiff was awarded the Resuscitation Center of Excellence award for 2025, becoming the first hospital in Palm Beach County to be named a Florida Resuscitation Center of Excellence. Additionally, the American College of Surgeons awarded Plaintiff the Metabolic and Bariatric Surgery Accreditation and Quality Improvement Program ("MBSAQIP") Surgery Center of Excellence award, which is dedicated to enhancing the safety and quality of care for bariatric patients in the United States and Canada.

Plaintiff also earned DNV GL Comprehensive Stroke certification. Additionally, Plaintiff earned the VQI (Vascular Quality Initiative) Carotid Care Champion this year, which honors participants that are dedicated to improving the safety and effectiveness of vascular care. Plaintiff is also accredited by the Joint Commission, the nation's largest hospital accreditor that evaluates hospitals' quality performance standards through an objective evaluation process. Plaintiff also earned a Certification for the American Association of Cardiovascular and Pulmonary Rehabilitation Program.

The American Heart Association honored Plaintiff with “Get with the Guidelines” Gold Plus awards in three specializations: Target Stroke Honor Roll Elite, Target Stroke Honor Roll Advanced Therapy, and Target Type II Diabetes Honor Roll.

In 2025, the medical ranking organization Healthgrades named Plaintiff one of the top 250 hospitals in the country. Healthgrades also assigned Plaintiff the following awards:

a. Cardiac Care

- i. Five-Star Recipient for Valve Surgery (2024-2025, two years in a row)
- ii. Five-Star Recipient for Treatment of Heart Attack (2024-2025, two years in a row)
- iii. Five-Star Recipient for Treatment of Heart Failure (2003-2025, 23 years in a row)
- iv. Five-Star Recipient for Defibrillator Procedures (2024-2025, two years in a row)
- v. Five-Star Recipient for Treatment of Stroke (2008-2025, 18 years in a row)
- vi. Five-Star Recipient for Coronary Interventional Procedures (2024)

b. Pulmonary Care

- i. One of Healthgrades America’s 100 Best Hospitals for Pulmonary Care in 2025
- ii. Recipient of the Healthgrades 2025 Pulmonary Care Excellence Award
- iii. Top 5% in the Nation for Overall Pulmonary Services (2025)
- iv. Top 10% in the Nation for Overall Pulmonary Services (2025)

- v. Five-Star Recipient for Treatment of Pneumonia (2024-2025, two years in a row)

c. Critical Care

- i. Recipient of the Healthgrades 2025 Critical Care Excellence Award
- ii. Top 5% in the Nation for Critical Care (2025)
- iii. Top 10% in the Nation for Critical Care (2025)
- iv. Five-Star Recipient for Treatment of Sepsis (2004-2025, 22 years in a row)
- v. Five-Star Recipient for Treatment of Respiratory Failure (2023-2025, three years in a row)

d. Gastrointestinal

- i. Five-Star Recipient for Upper Gastrointestinal Surgery (2022-2024, three years in a row)
- ii. Five-Star Recipient for Small Intestine Surgeries (2017-2021 (five years in a row), 2024)

e. Neurosurgery

- i. Five-Star Recipient for Cranial Neurosurgery (2024)

In addition, Plaintiff will produce and identify documents reflecting some of Plaintiff's rankings from other organizations.

Also, Plaintiff does not participate in Vizient and has not done so during the Relevant Time Period.

Interrogatory No. 13: Describe any steps taken by Your hospital to improve any and all of the patient safety measures considered by Leapfrog's Hospital Safety Grade (as set forth on Leapfrog's

published scoring methodology documents; see ECF No. 21-3 at 6-10; ECF No. 21-43 at 6-9), before and after each Safety Grade publication of which You complain.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of Plaintiff's improvements to "any and all" patient safety measures considered by Leapfrog's Hospital Safety Grade. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks information on metrics other than TLG's Deceptive Score Categories and to the extent it seeks information that is beyond the scope of Leapfrog's Hospital Survey.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objection, Plaintiff is committed to continual improvement of patient safety measures, motivated by our commitment to ensuring the best possible patient safety—not chasing the best possible Leapfrog grade. To achieve this core objective, Plaintiff devotes significant time and resources to improving its delivery of the highest possible quality of care for those in the community it serves, including efforts to improve its performance in areas related to the four metrics Plaintiff has chosen to impute in its survey.

Hand hygiene is reviewed at Plaintiff's monthly quality meeting by unit and by discipline. BCMA by unit is reviewed monthly by Plaintiffs' Chief Nursing Officer, and CPOE compliance is reviewed monthly through its hospitalists meetings, ensuring that providers are meeting metric.

ICU staffing is not something that needs to be monitored ongoing because Plaintiff has ICU coverage onsite 24/7 for regular critical care patients and trauma critical care patients.

Interrogatory No. 14: State whether You are aware of specific patients who have relied on the Leapfrog Safety Grade in declining to receive healthcare services at Your hospital. In so answering, identify the individual patient that declined to receive services, the date of such declination, the type of service the patient declined to receive, the medium for the communication from the patient (i.e. telephone, video conference, email, letter, etc.), the content of the communication, and the reason given for the stated decision.

Plaintiff objects to this Interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Answer: Subject to the foregoing objection, Plaintiff has received reports that patients considered or decided not to use Plaintiff's facility because of TLG's misleading grades.

Amended Answer: Subject to the foregoing objection, since the release of TLG's false and misleading grades, Plaintiff has received numerous reports from doctors that patients considered or decided not to use Plaintiff's facility due to concerns related to TLG's misleading grades.

Interrogatory No. 15: Describe any effort Your hospital has made to influence public perception of Your hospital's performance on patient safety following the publication of the Leapfrog Safety Grade.

Plaintiff objects to this Interrogatory as vague and ambiguous because it does not specify which Leapfrog Safety Grade is at issue. Plaintiff will construe this Interrogatory to reference TLG's deceptive Safety Grades beginning in Fall 2024. Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks "any effort" Plaintiff "has made to influence public perception" after the release of TLG's deceptive and unfair Safety Grades because there have been many such "efforts" and those

“efforts” are ongoing given the significant harm caused by TLG’s deceptive and unfair business practices.

Answer: Subject to the foregoing objections, Plaintiff continues to influence public perception by, among other things, delivering the highest quality care to the community it serves, which, as discussed in response to Interrogatory 12, has led to numerous awards, accreditations, and accolades. In addition, several public statements disputing the misleading nature of the Safety Grade have been made on Plaintiff’s behalf.

Supplemental Answer: In addition to the above, members of hospital leadership have communicated with patients, doctors, or community members on a regular basis to dispel the misleading nature of the Leapfrog Safety Grades. For instance, Plaintiff communicated its governing board, its medical executive committee, department directors, physicians and nurses, and patients when asked about the Safety Grades or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grades for Plaintiff’s hospital. The Palm Beach Health Network also issued a press release and has engaged in marketing efforts, including through social media, to counteract TLG’s deceptive scores on behalf of Plaintiff and other affected members of the network. Plaintiff also engaged in email discussions about TLG’s misleading grades, either as sender or recipient, which TLG has through Plaintiff’s production of documents.

Interrogatory No. 16: Describe the due diligence Your hospital undertakes to ensure the accuracy of its own publicly reported safety data (including but not limited to data submitted to CMS, the CDC, and third party organizations).

Plaintiff objects to this Interrogatory as vague and ambiguous due to its use of the undefined term “due diligence.” Plaintiff further objects to this Interrogatory because it seeks

discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Any “due diligence” Plaintiff performs when reporting to *third parties* has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices, especially when TLG does nothing to ensure the accuracy of information that hospitals that participate in its survey self-report.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objections, Plaintiff makes reasonable efforts to ensure the accuracy of the data it reports to third-party organizations. For instance, Plaintiff employs data abstractors, quality coordinators and a Quality Director, who are all responsible for abstracting, validating, and submitting safety data.

Interrogatory No. 17: Describe in detail how You communicate to the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System the outcome of any and all healthcare safety ratings, evaluative publications, studies, or performance analyses that Your Hospital receives.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff’s communication, if any, with the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System, all non-parties to this litigation, has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objection, Plaintiff communicates with Tenet stakeholders, including employees who work to support the Palm Beach Health Network, on a range of matters, including issues related to patient safety and outcomes and in particular related to TLG and the Safety Grades by email and oral communication. Those communications included discussions about the reasons for particular grades, the method used to calculate Safety Grades, the value of Safety Grades, and responses to the Safety Grades. In addition, identified below are documents Plaintiff produced evidencing communications between the Plaintiff and Tenet related to TLG, the Leapfrog survey, and Safety Grades.

Start Page	End Page
PBHN000004822	PBHN000004822
PBHN000004890	PBHN000004892
PBHN000004924	PBHN000004926
PBHN000006397	PBHN000006401
PBHN000002090	PBHN000002094
PBHN000002071	PBHN000002071
PBHN000004919	PBHN000004919
PBHN000004562	PBHN000004563
PBHN000004564	PBHN000004564
PBHN000004574	PBHN000004581

PBHN000004889	PBHN000004889
PBHN000004485	PBHN000004485
PBHN000004565	PBHN000004569
PBHN000004704	PBHN000004704
PBHN000004715	PBHN000004719
PBHN000004887	PBHN000004887
PBHN000005509	PBHN000005511
PBHN000005518	PBHN000005521
PBHN000005526	PBHN000005529
PBHN000006465	PBHN000006466

Discovery is ongoing, and Plaintiff reserves the right to amend, modify or supplement the response to this Interrogatory.

Interrogatory No. 18: State whether the compensation of Your Chief Executive Officer or any other executive-level leadership officers is tied to or related in any way to Your hospital's

performance on patient safety, union worker contracts or Your hospital's ratings by third party ratings organizations' ratings publications (including but not limited to the Leapfrog Hospital Safety Grade).

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff's method of compensating its Chief Executive Officer and other executive-level leadership **has nothing to do with the** claims and defenses in this case related to TLG's decision to use deceptive business practices.

Answer: TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objection, Plaintiff's performance on patient safety, union worker contracts, or ratings by third party ratings organizations' ratings publications is related in some way to the compensation of Plaintiff's Chief Executive Officer or other executive-level leadership officer(s).

Interrogatory No. 19: Identify all hospitals, medical centers, or healthcare systems that you consider to be your direct competitors within the relevant geographic market during the time period covered by the Complaint and describe in detail the criteria you use to determine whether another hospital or healthcare provider is a competitor.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. The identity of Plaintiff's competitors and "the criteria" used to determine whether a hospital or provide is a competitor has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff

also objects to this Interrogatory to the extent it seeks confidential, proprietary information, and commercially sensitive information related to Plaintiff's scoring system and "criteria" used to determine whether a hospital or provide is a competitor.

Subject to the foregoing objections and on condition that this response is considered "Confidential" under the forthcoming agreed confidentiality order, Bethesda Hospital East, Bethesda Hospital West, Boca Raton Regional Hospital, and HCA Florida JFK Hospital are Plaintiff's competitors. Plaintiff considers these hospitals competitors because of their proximity to Plaintiff, their competing services lines, and that patients within Plaintiff's service area go to these hospitals for medical care.

Interrogatory No. 20: State and describe the results of any market analysis, competitive analysis, or consumer perception surveys you have conducted or commissioned regarding your competitors from 2020 to present, and identify the individuals or entities that prepared or participated in such analyses.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not is not proportional to the needs of this Action. The results of any market analysis, competitive analysis, or consumer perception surveys and the identity of those who prepared or participated in such analyses has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Plaintiff further objects to this Interrogatory to the extent it requests information from outside of the relevant time period of January 1, 2023, to present. Plaintiff also

objects to this Interrogatory as unduly burdensome to the extent it asks Plaintiff to “state and describe” various market analysis.

As agreed during the parties’ meet and confer on September 3, 2025, Plaintiff will produce documents showing the results of studies or surveys Plaintiff has conducted or commissioned related to internal market analysis, competitive analysis, or consumer perception. Plaintiff will identify the documents responsive to this Interrogatory by Bates number in Plaintiffs’ production cover letter.

Interrogatory No. 21: Identify with specificity any comments or concerns raised by any third party payor, bank or lender, or investor related to Your hospital’s reputation and/or public perception on issues in any way involving patient safety or satisfaction.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not proportional to the needs of this case to the extent it seeks “comments and concerns” from third parties related generally to Plaintiff’s reputation that has nothing to do with the specific and significant reputational harm caused by TLG’s misleading grades.

Answer: Subject to the foregoing objections, Plaintiff will produce and identify documents related to the significant reputational harm caused by TLG’s deceptive and unfair Safety Grades that provide sufficient detail to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objections, Plaintiff is unaware of any documents related to this Interrogatory.

Interrogatory No. 22: Identify and describe any complaints, concerns, or comments from patients, community members, or referring physicians that relate to the hospital’s reputation or comparisons to other hospitals in the region.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not proportional to the needs of this Action to the extent it seeks “comments and concerns” from patients, community members, or referring physicians that have nothing to do with the significant reputational harm caused by TLG’s misleading grades. Plaintiff also objects to this interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to the agreed protective order entered by this Court.

Answer: Subject to the foregoing objections, Plaintiff has received reports that patients and physicians considered or decided not to use Plaintiff’s facility because of TLG’s misleading grades.

Amended Answer: Subject to the foregoing objections, Plaintiff has received reports that patients and physicians considered or decided not to use Plaintiff’s facility because of TLG’s misleading grades. In addition, concerns have been raised by patients, doctors, staff, and community members, and Plaintiff is aware of false and misleading statements based on TLG’s false and misleading methodology and Safety Grades made in newspapers, viral social-media videos, television programs, and blogs.

Our Medical Executive Committee has received direct inquiries from patients regarding their concerns as to TLG’s grades and related public reports. Patients have told physicians that they do not want to go to the Medical Center for surgeries after seeing TLG’s grade and associated press reports. Medical professionals have expressed concern about working with the Medical Center due to the grade TLG assigned it. Further, we have received reports from patients and

doctors that patients have planned to drive past the Medical Center to a farther away medical facility due to the grade assigned by TLG to the Medical Center. Community members have given negative feedback related to the rating. The harm caused by TLG's false and misleading Safety Grade is ongoing.

In addition, the following produced documents evidence such harm.

Start Page	End Page
PBHN000006771	PBHN000006773
PBHN000002082	PBHN000002085
PBHN000002066	PBHN000002070
PBHN000002615	PBHN000002617
PBHN000006397	PBHN000006401
PBHN000002090	PBHN000002094
PBHN000002071	PBHN000002071
PBHN000004919	PBHN000004919

PBHN000004484	PBHN000004484
PBHN000004564	PBHN000004564
PBHN000004574	PBHN000004580
PBHN000004557	PBHN000004557
PBHN000004887	PBHN000004887
PBHN000008718	PBHN000008718
PBHN000006461	PBHN000006462
PBHN000008914	PBHN000008914
PBHN000008915	PBHN000008915

Discovery is ongoing, and Plaintiff reserves the right to amend, modify or supplement the response to this Interrogatory.

Interrogatory No. 23: List with specific detail each and every concern, complaint or comment made by any union, collective bargaining unit or employee association in any way related to patient safety at Your hospital.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks "each and every concern, complaint or comment " from third parties that have

nothing to do with the significant reputational harm caused by TLG's misleading grades. Plaintiff also objects to this Interrogatory to the extent it seeks health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to the agreed protective order entered by this Court.

Subject to the foregoing objections, there is no union, collective bargaining unit, or employee association at Plaintiff.

Interrogatory No. 24: Identify any and all criticism You have received since 2020 from Tenet Healthcare Corporation and/or from any individual executive of Tenet Healthcare Corporation regarding Your hospital's performance in any way.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Any so-called "criticism" has nothing to do with the claims and defenses related to TLG's decision to use deceptive business practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Amended Answer: As discussed during the parties' meet and confer on September 3, 2025, TLG agreed to narrow this Interrogatory to concern only "criticism...regarding Your hospital's patient safety." After a reasonable and diligent search, Plaintiff is unaware of having received "criticism" from Tenet Health Corporation regarding patient safety. Plaintiff is always working to improve its performance, quality, and safety in a constructive way and engages with Tenet Health Corporation as needed to ensure Plaintiff provides the best patient care possible.

Dated: September 8, 2025

Respectfully submitted,

By: /s/ Lee R. Crain

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Attorneys for Delray Medical Center, Inc.

CERTIFICATE OF SERVICE

This is to certify that true and correct copies of Plaintiff's Amended and Supplemented Responses and Objections to Defendant The Leapfrog Group's First Sets of Interrogatories to Plaintiff have been served on counsel for The Leapfrog Group by electronic transmission.

/s/ Lee R. Crain
Lee R. Crain

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,

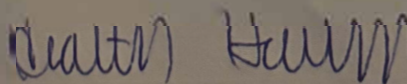
Defendant.

**AFFIDAVIT OF HEATHER HAVERICAK IN SUPPORT OF
PLAINTIFF DELRAY MEDICAL CENTER, INC.'S
AMENDED AND SUPPLEMENTED RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP'S FIRST SET OF
INTERROGATORIES TO DELRAY MEDICAL CENTER**

I, Heather Havericak, declare as follows:

1. I am over 21 years of age and competent to give this testimony.
2. I am the Chief Executive Officer of Delray Medical Center, Inc. ("Plaintiff"). I am the corporate representative of Plaintiff for the purpose of answering Defendant The Leapfrog Group's First Set of Interrogatories to Delray Medical Center. I have read the foregoing interrogatories and the answers to those interrogatories, which are true according to the best of my knowledge, information, and belief.
3. I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 8, 2025.



Heather Havericak

EXHIBIT 4C

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.

**PLAINTIFF PALM BEACH GARDENS MEDICAL CENTER'S
AMENDED AND SUPPLEMENTED RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP'S FIRST SET OF
INTERROGATORIES TO PALM BEACH GARDENS MEDICAL CENTER**

Pursuant to Federal Rules of Civil Procedure 26 and 33 and the *Pretrial Scheduling Order and Order Referring Case to Mediation* (ECF No. 36) (the “Pretrial Scheduling Order”), Plaintiff Palm Beach Gardens Medical Center (“Plaintiff” or “Palm Beach Gardens”), by and through its undersigned counsel, hereby submit its amended and supplemented responses and objections (“Responses”), to Defendant The Leapfrog Group’s (“TLG”) First Set of Interrogatories, dated July 11, 2025 (the “Interrogatories” and each numbered interrogatory, an “Interrogatory”) in the above-captioned action (the “Action”).

Plaintiff’s Responses to the Interrogatories are made solely for purposes of this Action and to the best of Plaintiff’s present knowledge, information, and belief regarding the matters about which inquiry have been made. Discovery is ongoing, and Plaintiff reserves the right to amend, supplement, clarify, or further explain its Responses at any time prior to the trial in

this Action. Plaintiff further reserves the right to raise any additional objections deemed necessary or appropriate in light of any further review.

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. Plaintiff objects to the definition of terms “Plaintiffs” and “Plaintiff Hospitals” as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it seeks to require Plaintiffs to respond on behalf of entities or individuals other than themselves.

2. Plaintiff objects to the definition of the terms “Palm Beach Gardens,” “Palm Beach Gardens Medical Center,” “Plaintiff,” “You,” and “Your” to the extent each term seeks to require Plaintiff to respond on behalf of entities or individuals other than itself, including on behalf of agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

3. Plaintiff objects to the definition of the terms “Tenet Healthcare” and “Tenet” to the extent it seeks to require Plaintiff to respond on behalf of entities or individuals other than itself, including on behalf of Tenet, Tenet’s agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

4. Plaintiff objects to the definition of “identify, when referring to a person,” as overbroad and unduly burdensome to the extent it calls for the “address” and “present or last-known employer” of identified individuals. Such information is overbroad and beyond the scope of permissible discovery.

5. Plaintiff objects to the instruction that the relevant time period for the Interrogatories begins on January 1, 2020. Plaintiff will apply to each Interrogatory the time period

of November 1, 2023 to present (the “Relevant Time Period”). Any response to an Interrogatory that provides information that falls outside of the Relevant Time Period should not be construed as an admission that the Relevant Time Period begins prior to November 1, 2023.

SPECIFIC RESPONSES TO INTERROGATORIES

Interrogatory No. 1: State the full name, address, job title or position, and hospital or employer affiliation of all individuals that assisted with responding to these interrogatories.

Answer: The following individuals assisted with responding to these Interrogatories.

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Erik Cazares	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Chief Executive Officer	Palm Beach Gardens Community Hospital
Regina West	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Market Quality Director	Palm Beach Health Network and St. Mary's Medical Center

Interrogatory No. 2: Identify every individual not identified in Your Rule 26(a) initial disclosures with knowledge of facts pertaining to the allegations in Your Complaint in this Lawsuit (and any subsequent amendments) and/or whom You believe may have discoverable knowledge, information or data regarding this matter, including those who You expect to call as a fact or opinion witness at any hearing in this proceeding or whose testimony (by affidavit, deposition or testimony) You intended to submit in connection with this proceeding, and the substance of his/her testimony or affidavit, and, with respect to each person identified, provide:

- A. full name,
- B. address,
- C. telephone number,
- D. job title or position,
- E. hospital or employer affiliation,
- F. and describe in detail the facts possessed by each such person.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of “every individual...with knowledge” or who “may have discoverable knowledge, information or data regarding this matter.” Plaintiff will not provide more than the identity of individuals most likely to have knowledge regarding this matter. Plaintiff further objects to this Interrogatory as premature because it requests disclosure of Plaintiff’s witnesses for hearings and the substance of witness testimony before such disclosure is required under applicable law or the Pretrial Scheduling Order. Plaintiff will submit its trial witness list on October 2, 2025, per the Pretrial Scheduling Order, and disclose any other witnesses and witness testimony as further ordered by the Court or otherwise required by applicable law. Plaintiff also objects to this Interrogatory’s request for the identity of “opinion witness[es]” as vague, since witnesses are either “fact” or “expert” witnesses. Plaintiff will interpret “opinion witness” to mean “expert witness.” Plaintiff submitted expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Answer: Subject to the foregoing objection, Plaintiff will amend its Rule 26(a)(1) Initial Disclosures to identify additional individuals who may have knowledge of facts pertaining to the allegations in the Complaint.

Amended Answer: In addition to those disclosed in Plaintiff’s supplemental disclosures, the following individuals may have relevant factual knowledge:

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Regina West	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Market Quality Director	Palm Beach Health Network and St. Mary’s Medical Center

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Kathleen McDonald	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Quality Director	Palm Beach Gardens Community Hospital

In addition to the individuals identified above, persons identified in documents produced in this dispute have knowledge of facts pertaining to the allegations in the Amended Complaint. *See* Fed. R. Civ. P. 33(d). Discovery is ongoing, and Plaintiff reserves the right to supplement, amend, correct, clarify, or modify this Response as further information becomes available.

Interrogatory No. 3: Describe in detail all factual bases for Your contention that Leapfrog’s published Safety Grade for Your hospital was false, inaccurate, misleading, deceptive, or unfair. In so answering, identify with particularity each measure, data point, or metric that You contend was inaccurately reported, calculated, or misrepresented by Leapfrog in calculating the Safety Grade for Your hospital.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all factual bases” for Plaintiff’s contention. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure: Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory as premature to the extent it requests that Plaintiff “[d]escribe in detail all factual bases” to support its contention. *In re Reliance Fin. & Inv. Grp., Inc.*, 2006 WL 8435541, at *4 (S.D. Fla. Feb. 14, 2006) (Contention interrogatories “are more appropriately used after a substantial amount of discovery has been conducted--typically, at the end of the discovery period.”). Plaintiff also objects to this Interrogatory to the extent it attempts to limit or mischaracterize Plaintiff’s claim as just

challenging the false, inaccurate, misleading, deceptive, or unfair nature of TLG’s Safety Grade. As the Court explained in its order denying TLG’s motion to dismiss, the core of the Complaint is “a challenge to Defendant’s representations about its methodology, which they claim mislead consumers by failing to distinguish between absent data and damning data, and professing that grades are not influenced by a hospital’s lack of survey participation.” *Order on Motion to Dismiss* 6 (ECF No. 41). Plaintiff also challenges the provably false facts and deceptive scoring system underlying these grades, which TLG admits it relies on to arrive at its deceptive Safety Grades.

Subject to the foregoing objections and as more fully stated in the *Amended Complaint* (ECF No. 74) (“Complaint”), TLG has engaged in deceptive and unfair business practices and misrepresentations when issuing the Safety Grade for Plaintiff’s hospital as part of TLG’s annual “Hospital Survey.” TLG posts these Safety Grades online at hospitalsafetygrade.org.

To arrive at these Safety Grades, TLG uses CMS data, survey responses from participating hospitals, and other supplemental data sources. For participating hospitals, TLG uses the hospitals’ self-reported responses to the Hospital Survey for 12 of the 22 measures. For non-participating hospitals, TLG uses other sources for those 12 measures. For the remaining four measures—Computerized Physician Order Entry, Bar Code Medication Administration, ICU Physician Staffing, and Hand Hygiene Score (the “Deceptive Score Categories”)—TLG devised and uses a so-called “imputation model.” Prior to Fall 2024, TLG’s imputation model assigned non-participating hospitals a score based on the average score applicable to a similarly situated hospital. Beginning in Fall 2024, TLG modified its imputation model. TLG now assigns the lowest possible score to non-participating hospitals, which has the effect of punishing non-participating hospitals and artificially deflating their Safety Grades. TLG has even admitted the changes in Fall 2024 were designed to penalize non-participating hospitals. TLG also misleads consumers about how

it grades hospitals, stating “[t]he Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the [TLG] Hospital Survey.” *Declaration of Lee Crain* (ECF No. 21) (“Crain Decl.”), Ex. 1 at 4 (“Frequently Asked Questions About the Leapfrog Hospital Safety Grade”).

As TLG explains, “not all hospitals have enough data publicly available to be eligible for a grade.” Crain Decl. Ex. 1 at 5. “As per the National Expert Panel guidance, [TLG] has requirements for the minimum amount of data [it] need[s] to issue an accurate grade.” Crain Decl. Ex. 1 at 5. According to TLG, “[h]ospitals missing more than six process measures” are “not graded.” Crain Decl. Ex. 2 at 6. Non-participating hospitals should fall easily into that “not graded” bucket, because their decision not to participate in TLG’s survey necessarily means TLG is missing seven process measures that rely on voluntary submission of hospital data.¹

TLG then deceptively conceals how it makes up grades for the four “imputation” measures and even suggests on its website that TLG *does* have data sufficient to score TLG on those four measures. By way of example, TLG acknowledges that Plaintiff “Declined to Report” information in response to questions about “Staff work[ing] together,” but then tells consumers—as if it were a fact—that Plaintiff is “Worse Than Average” on “Handwashing,” “Communication,” “medication administration,” and the like—even though TLG has no basis whatsoever to adopt those conclusions. Crain Decl. Ex. 32 at 2. TLG itself says handwashing is among the “most important” measures in its survey, Crain Decl. Ex. 15 at 4, yet it deceptively conceals that it has no data with which to grade the Plaintiff hospital on that measure. *Defendant The Leapfrog Group’s Responses to Plaintiffs’ Requests for Production* at 7 (“Leapfrog is not itself in possession

¹ Those seven include CPOE, BCMA, IPS, Safe Practice 1: Culture of Leadership Structures and Systems; Safe Practice 2: Culture Measurement, Feedback & Intervention; Total Nursing Care Hours per Patient Day; and Hand Hygiene.

of data showing Plaintiffs' performance on the 'imputed metrics' considered by the methodology.")). Of course, Plaintiff in fact has a comprehensive and thorough handwashing policy. And had Plaintiff merely filled out TLG's survey, it would have received a full two letter grades higher on TLG's score. *Expert Report of Professor Sean Nicholson* (Aug. 7, 2025), Ex. 6.

Based on the foregoing, and as more fully set forth in the Complaint, TLG engages in deceptive trade practices by, among other things, deceiving consumers about its grading methods by implying that Plaintiff has failed on certain measures that, in truth, TLG has no data or other basis to evaluate; deceiving consumers by telling them the Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the Hospital Survey; deceiving consumers when it represents that it does not grade hospitals if it lacks sufficient data, when, in truth, it does grade hospitals by "imputing" or making up a grade for the Deceptive Score Categories; hiding the truth about its "imputation model" from consumers by burying it in fine print on a separate website; punishing non-participating hospitals by "imputing" scores, which artificially deflate a hospital's Safety Grade; and favoring participating hospitals. Additional factual bases for the Plaintiff's claims are presented in the Complaint.

Interrogatory No. 4: Describe the scoring or grading methodology You believe Leapfrog should have used to assess Your hospital's patient safety performance and explain why that method would yield a different result.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff's provision of an alternative scoring or grading methodology has nothing to do with the claims and defenses in this case related to TLG's

decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it calls for speculation.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objections, Plaintiff responds that TLG should use a scoring system that is not unfair or deceptive. By way of example only, TLG could decline to grade hospitals that do not participate in TLG's survey, because their decision not to participate means TLG is missing seven process measures that rely on voluntary submission of hospital data. This would yield a different result, because the hospitals would not receive a grade at all. TLG's methodology certainly should not affirmatively assign an arbitrary low score to a particular metric just because a hospital does not provide data for that metric.

Interrogatory No. 5: State whether You submitted any data, corrections, or appeals to Leapfrog regarding the Safety Grade Your hospital received, and for each such submission, identify the date of the submission, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the submission, and the content of the submission.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Whether or not Plaintiff submitted "any data, corrections, or appeals to Leapfrog regarding the Safety Grade" Plaintiff hospital received has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Answer: Subject to the foregoing objections, Plaintiff engaged in correspondence prior to the commencement of this case demanding that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, but at every turn TLG refused.

Amended Answer: Subject to the foregoing objections, Plaintiff did not submit any data, corrections or appeals to Leapfrog regarding the Safety Grades it has received.

Interrogatory No. 6: State whether You provided any comment or input in any form during Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade methodology that was proposed for the calculation of Hospital Safety Grades (including but not limited to for the Fall 2024 methodology update). If yes, please identify the date of the comment, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the comment and the content of the comment. If no, please state the reason why You chose not to comment.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Whether or not Plaintiff submitted "any comment or input" in response to TLG's request for public comments has nothing to do with claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Subject to the foregoing objections, Plaintiff did not provide comments in response to Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade scoring system because Plaintiff generally does not respond to requests for public comment from private entities like TLG.

Interrogatory No. 7: Describe all actions Your hospital took in response to (or in deciding not to respond to) its Safety Grade or the Hospital Survey, including internal meetings, media statements, or public relations efforts. In so answering, state the date of the action, the individuals involved in the action and the content of the action.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all actions” Plaintiffs may have taken in response to TLG’s Safety Grades. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, No. 14-81476-CIV, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure: Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Answer: Subject to the foregoing objections, Plaintiff devoted substantial time and resources that could have otherwise been spent continuing to improve patient care to respond to the significant harm and disruption caused by TLG’s deceptive and unfair Safety Grade. Plaintiff’s response included meeting internally with Plaintiff’s leadership team, medical executive committee, and governing board, corresponding with TLG to demand that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, and devoting substantial time and resources to facilitate the preparation and prosecution of this Action.

Amended Answer: Subject to the foregoing objections, Plaintiff devoted substantial time and resources that could have otherwise been spent continuing to improve patient care to respond to the significant harm and disruption caused by TLG’s deceptive and unfair Safety Grades. Plaintiff’s response included meeting internally with Plaintiff’s leadership team, medical executive

committee, and governing board, corresponding through Plaintiff's corporate parent with TLG to demand that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, and devoting substantial time and resources to facilitate the preparation and prosecution of this Action. Plaintiff has also held many phone calls and meetings with physicians and other stakeholders about the TLG grades, explaining how the grades were deceptive and did not accurately reflect the hospital quality and patient safety at Plaintiff.

Interrogatory No. 8: Identify any and all persons, whether internal or external (e.g., patients, vendors, affiliates, parents, agents, partners, media) with whom You communicated in any way with respect to the Safety Grade or the Hospital Survey. In so answering, state the date of the communication, the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.) and the content of the communication.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of "any and all persons, whether internal or external." Plaintiff will disclose the categories of individuals with whom Plaintiff communicated about the Safety Grade or Hospital Survey during the Relevant Time Period. Plaintiff also objects to this Interrogatory to the extent it seeks protected health information that Health Insurance Portability and Accountability Act ("HIPAA"), among other statutes and regulations, bars Plaintiff from disclosing. Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Answer: Subject to the foregoing objections, Plaintiff communicated with the following categories of people regarding the Safety Grade or the Hospital Survey: Plaintiff's governing board, its medical executive committee, department directors, and physicians and nurses when

asked about the Safety Grade or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grade for Plaintiff's hospital. Most of these communications occurred during regularly scheduled meetings, during which attendees were told about TLG's release of the deceptive and unfair Safety Grade, that Plaintiff does not participate in the Hospital Survey because it is unreliable and not an accurate reflection of hospital quality and safety or patient outcomes, and that the Safety Grade, which was not based on any information provided by Plaintiff, was misleading. The Palm Beach Health Network also issued a press release and since then, has engaged in various social networking and other marketing campaigns to counteract TLG's deceptive scores on behalf of Plaintiff and other affected members of the network.

Amended Answer: Subject to the foregoing objections, Plaintiff communicated with the following categories of people regarding the Safety Grade or the Hospital Survey: Plaintiff's governing board, its medical executive committee, department directors, physicians and nurses, and patients when asked about the Safety Grades or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grades for Plaintiff's hospital. Most of these communications occurred during regularly scheduled meetings, during which attendees were told about TLG's release of the deceptive and unfair Safety Grade, that Plaintiff does not participate in the Hospital Survey because it is unreliable and not an accurate reflection of hospital quality and safety or patient outcomes, and that the Safety Grade, which was not based on any information provided by Plaintiff, was misleading. The Palm Beach Health Network also issued a press release and has engaged in marketing efforts, including through social media, to counteract TLG's deceptive scores on behalf of Plaintiff and other affected members of

the network. Plaintiff also engaged in email discussions about TLG's misleading grades, either as sender or recipient, which TLG has through Plaintiff's production of documents.

Interrogatory No. 9: Describe all instances in which a third party declined to contract with, refer patients to, or work with Your hospital, where Leapfrog's grade was cited or discussed. In so identifying list the name of the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.), the date of the communication and the content of the communication.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it requires Plaintiff to "[d]escribe all instances" in which a third party took an action in response to TLG's deceptive grade.

Subject to the foregoing objection, Plaintiff is not aware of any responsive instances.

Interrogatory No. 10: Describe with specificity the basis for each and every category of damage You claim You incurred as a result of the Leapfrog Safety Grade. In so identifying, list each category of damages and the dollar value of each category of damage You claim.

Plaintiff objects to this Interrogatory to the extent it seeks information that is the subject of expert testimony.

Answer: Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Amended Answer: Plaintiff has served the expert report of Thomas Chakurda, which addresses the issue of reputational harm and harm to Plaintiff's goodwill. Plaintiff further objects to this Interrogatory as overbroad and unduly burdensome to the extent it seeks "each and every" category of claimed damages.

Subject to the foregoing objections and as agreed during the parties' September 3, 2025 meet and confer, Plaintiff will limit its response to the live non-monetary claims, including

injunctive and declaratory relief, to remedy harm to Plaintiff's reputation and goodwill. Plaintiff's reputation and goodwill has been damaged by TLG's false and misleading methodology and resulting Safety Grades. Plaintiff's claim for reputational harm is based on, among other things, concerns raised by patients, doctors, staff, and community members, as well as false and misleading statements based on TLG's false and misleading methodology and Safety Grades made in newspapers, viral social-media videos, television programs, and blogs.

By way of example, we have received reports from patients that they decided not to use our hospital due to the misleading grade TLG assigned to the hospital. Our Medical Executive Committee has received direct inquiries from patients regarding their concerns about TLG's grades and related public reports. Patients have asked independent physicians that use both our facilities and those of Jupiter Medical Center (a nearby hospital) to schedule their surgeries at Jupiter Medical Center and not at ours. These independent surgeons have told us that they believe TLG has misled these patients about the quality of the Medical Center because these surgeons believe our hospital provides higher-quality care. Doctors have had patients express that they do not want to come to the Medical Center, specifically because of the Leapfrog grade. The harm caused by TLG's false and misleading Safety Grade is ongoing.

Interrogatory No. 11: Identify all adverse patient events which occurred at Your hospital, including any citations received from regulatory agencies, accrediting agencies, and third party payors such as The Joint Commission, CMS, state health departments, etc. during the period covered by each Leapfrog Safety Grade publication of which You complain (i.e., Fall 2024, Fall 2025, etc.), as well as any complaints received from patients regarding the same.

Plaintiff objects to this Interrogatory because it is overly broad, unduly burdensome, seeks discovery of information that is irrelevant to the claims and defenses in this Action, seeks information that is beyond the scope of Leapfrog's Hospital Survey, and is not reasonably

calculated to lead to the discovery of admissible evidence. TLG does not include “all adverse patient events,” “citations received from” agencies or payors, or “complaints received from patients” in TLG’s determination of its Hospital Safety Grades or request such information in the Hospital Survey, so any such information is irrelevant to whether TLG’s actions constitute unfair or deceptive trade practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff also objects to this Interrogatory to the extent it seeks protected health information that HIPAA, among other statutes and regulations, bars Plaintiff from disclosing.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Defendant has agreed to withdraw this Interrogatory.

Interrogatory No. 12: Describe in detail how Your hospital compares nationally on on [sic] any other ranking of patient safety performance, including but not limited to Vizient, Inc., Premier, Inc., HealthTrust Purchasing Group, The Joint Commission, HealthGrades, US News, Newsweek, Statista, Definitive Healthcare, or any other quality benchmarking entity including benchmarking on patient safety including on adverse events and on healthcare-acquired infections.

Plaintiff objects to this Interrogatory’s request that Plaintiff “[d]escribe in detail how Your hospital compares nationally” based on undisclosed “benchmarking” as vague and confusing. To the extent this Interrogatory seeks the top-line rankings of the identified organizations, Plaintiff objects to this Interrogatory because such information is publicly and equally available to TLG. To the extent this Interrogatory asks Plaintiff to compare itself to the named and unnamed entities, that request is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Other organizations’ rankings have nothing to do with

the claims and defenses in this case related to the Deceptive Score Categories or TLG's decision to use deceptive business practices.

Answer: Subject to the foregoing objections, Plaintiff has received numerous awards and accolades, including many that are especially relevant to patient care for the over-65 patient community that represent over 50% of the patients we serve. Plaintiff is accredited by the Joint Commission, the nation's largest hospital accreditor that evaluates hospitals' quality performance standards through an objective evaluation process. Plaintiff has also been accredited by Joint Commission as an Advanced Primary Stroke Center—a certification designed for hospitals providing the critical elements to achieve long-term success in improving stroke outcomes—and Total Joint Hip/Knee Certification—which signifies our services have delivered evidence-based proof of clinical quality sought by patients and payers alike. Additionally, it has a lab accreditation from the College of American Pathologists—requirement to perform testing on specimens from human beings—and was selected as a certified program with the American Association of Cardiovascular and Pulmonary Rehabilitation (AACVPR)—the only peer-reviewed accreditation process designed to review individual facilities for adherence to standards and guidelines developed and published by the AACVPR. These accreditations and certifications are only awarded after in-person visits to Plaintiff where our health care professionals are interviewed and patient care is reviewed first hand. We are subject to regular periodic in-person reviews, audits, surveys, and assessments of the facility.

Plaintiff has also received numerous awards that exemplify its quality such as Blue Distinction Center+ Designation for Quality and Cost-Efficiency in Knee and Hip Replacement Surgeries by BlueCross BlueShield, the Joint Commission's Gold Seal of Approval for Hip and Knee Replacement, an Aetna Institute of Quality Orthopedic Facility for Total Joint Replacement

and Spine Surgery, Get with the Guidelines Gold Plus Stroke Recognition Award from the American Heart Association for 10 years straight, and the Gold Plus Diabetes Recognition Award for the last three years, among several other awards.

In 2025, the medical ranking organization Healthgrades gave Plaintiff the award for “America’s 100 Best for Spine and Outpatient Orthopedic Excellence Award.” To assess and evaluate hospitals, Healthgrades relies on data from Medicare medical claims records and states’ data on Medicare and commercially insured patient outcomes to determine patients’ actual clinical outcomes when visiting a given hospital. Healthgrades also assigned Plaintiff five-star awards for various specialties, including:

a. Cardiac Care

- i. Five-Star Recipient for Valve Surgery (2023, 2025)
- ii. Five-Star Recipient for Treatment of Heart Failure for three years in a row (2023-2025)
- iii. Five-Star Recipient for Carotid Procedures for three years in a row (2023-2025)
- iv. Recipient of the Healthgrades 2023 Cardiac Surgery Excellence Award
- v. Top 10% in the Nation for Cardiac Surgery (2023)

b. Critical Care

- i. Five-Star Recipient for Respiratory Failure for two years in a row (2024-2025)

c. Gastrointestinal

- i. Five-Star Recipient for Colorectal Surgeries (2025)
- ii. Five-Star Recipient for Treatment of GI Bleed (2024)

d. Neurosurgery

- i. Five-Star Recipient for Treatment of Stroke (2025)

e. Pulmonary

- i. Five-Star Recipient for Treatment of Pneumonia for three years in a row (2023-2025)
- ii. Recipient of the Healthgrades Pulmonary Care Excellence Award (2024, 2025)
- iii. Top 10% in the Nation for Pulmonary Care (2024, 2025)
- iv. Five Star Recipient for Treatment of Chronic Obstructive Pulmonary Disease (2024).

In addition, Plaintiff will produce and identify documents reflecting some of Plaintiff's rankings from other organizations.

Amended Answer: Plaintiff has received numerous awards and accolades. For example, Plaintiff is accredited by the Joint Commission. Plaintiff has also been accredited by Joint Commission as an Advanced Primary Stroke Center and earned Total Joint Hip/Knee Certification. Additionally, it has a lab accreditation from the College of American Pathologists and was selected as a certified program with the American Association of Cardiovascular and Pulmonary Rehabilitation (AACVPR).

Plaintiff has also received the Blue Distinction Center+ Designation for Quality and Cost-Efficiency in Knee and Hip Replacement Surgeries by BlueCross BlueShield, an Aetna Institute of Quality Award, Get with the Guidelines Gold Plus Stroke Recognition Award from the American Heart Association, and the Gold Plus Diabetes Recognition Award, among several other awards.

In 2025, the medical ranking organization Healthgrades assigned Plaintiff five-star awards for various specialties, including:

a. Cardiac Care

- i. Five-Star Recipient for Valve Surgery (2025)
- ii. Five-Star Recipient for Treatment of Heart Failure for three years in a row (2023-2025)
- iii. Five-Star Recipient for Carotid Procedures for three years in a row (2023-2025)

b. Critical Care

- i. Five-Star Recipient for Respiratory Failure (2024, 2025)

c. Gastrointestinal

- i. Five-Star Recipient for Colorectal Surgeries (2025)

d. Neurosurgery

- i. Five-Star Recipient for Treatment of Stroke (2025)

e. Pulmonary

- i. Five-Star Recipient for Treatment of Pneumonia for three years in a row (2023-2025)
- ii. Recipient of the Healthgrades Pulmonary Care Excellence Award (2024, 2025)

In addition, Plaintiff will produce and identify documents reflecting some of Plaintiff's rankings from other organizations.

Also, Plaintiff does not participate in Vizient and has not done so during the Relevant Time Period.

Interrogatory No. 13: Describe any steps taken by Your hospital to improve any and all of the patient safety measures considered by Leapfrog's Hospital Safety Grade (as set forth on Leapfrog's published scoring methodology documents; see ECF No. 21-3 at 6-10; ECF No. 21-43 at 6-9), before and after each Safety Grade publication of which You complain.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of Plaintiff's improvements to "any and all" patient safety measures considered by Leapfrog's Hospital Safety Grade. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks information on metrics other than TLG's Deceptive Score Categories and to the extent it seeks information that is beyond the scope of Leapfrog's Hospital Survey.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objection, Plaintiff is committed to continual improvement of patient safety measures, motivated by our commitment to ensuring the best possible patient safety—not chasing the best possible Leapfrog grade. To achieve this core objective, Plaintiff devotes significant time and resources to improving its delivery of the highest possible quality of care for those in the community it serves, including efforts to improve its performance in areas related to the four metrics Plaintiff has chosen to impute in its survey.

Plaintiff reviews its CPOE, BCMA, and Hand Hygiene metrics at periodic meetings to ensure patient safety and compliance and develop and review remedial plans as necessary.

Plaintiff already has 24/7 ICU coverage for its intensivist unit and has on call providers in case additional resources are needed. Plaintiff also continuously reassesses the staffing needs for the department.

Interrogatory No. 14: State whether You are aware of specific patients who have relied on the Leapfrog Safety Grade in declining to receive healthcare services at Your hospital. In so answering, identify the individual patient that declined to receive services, the date of such declination, the type of service the patient declined to receive, the medium for the communication from the patient (i.e. telephone, video conference, email, letter, etc.), the content of the communication, and the reason given for the stated decision.

Plaintiff objects to this Interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Answer: Subject to the foregoing objection, Plaintiff has received reports that patients considered or decided not to use Plaintiff's facility because of TLG's misleading grades.

Amended Answer: Subject to the foregoing objection, since the release of TLG's false and misleading grades, Plaintiff has received numerous reports from doctors that patients considered or decided not to use Plaintiff's facility due to concerns related to TLG's misleading grades.

Interrogatory No. 15: Describe any effort Your hospital has made to influence public perception of Your hospital's performance on patient safety following the publication of the Leapfrog Safety Grade.

Plaintiff objects to this Interrogatory as vague and ambiguous because it does not specify which Leapfrog Safety Grade is at issue. Plaintiff will construe this Interrogatory to reference TLG's deceptive Safety Grades beginning in Fall 2024. Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks "any effort" Plaintiff "has made to influence public perception" after the release of TLG's deceptive and unfair Safety Grades because there have been many such "efforts" and those

“efforts” are ongoing given the significant harm caused by TLG’s deceptive and unfair business practices.

Answer: Subject to the foregoing objections, Plaintiff continues to influence public perception by, among other things, delivering the highest quality care to the community it serves, which, as discussed in response to Interrogatory 12, has led to numerous awards, accreditations, and accolades. In addition, several public statements disputing the misleading nature of the Safety Grade have been made on Plaintiff’s behalf.

Supplemental Answer: In addition to the above, members of hospital leadership have communicated with patients, doctors, or community members on a regular basis to dispel the misleading nature of the Leapfrog Safety Grades. For instance, Plaintiff communicated its governing board, its medical executive committee, department directors, physicians and nurses, and patients when asked about the Safety Grades or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grades for Plaintiff’s hospital. The Palm Beach Health Network also issued a press release and has engaged in marketing efforts, including through social media, to counteract TLG’s deceptive scores on behalf of Plaintiff and other affected members of the network. Plaintiff also engaged in email discussions about TLG’s misleading grades, either as sender or recipient, which TLG has through Plaintiff’s production of documents.

Interrogatory No. 16: Describe the due diligence Your hospital undertakes to ensure the accuracy of its own publicly reported safety data (including but not limited to data submitted to CMS, the CDC, and third party organizations).

Plaintiff objects to this Interrogatory as vague and ambiguous due to its use of the undefined term “due diligence.” Plaintiff further objects to this Interrogatory because it seeks

discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Any “due diligence” Plaintiff performs when reporting to *third parties* has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices, especially when TLG does nothing to ensure the accuracy of information that hospitals that participate in its survey self-report.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objections, Plaintiff makes reasonable efforts to ensure the accuracy of the data it reports to third-party organizations. For instance, Plaintiff employs data abstractors, quality coordinators and a Quality Director, who are all responsible for abstracting, validating, and submitting safety data.

Interrogatory No. 17: Describe in detail how You communicate to the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System the outcome of any and all healthcare safety ratings, evaluative publications, studies, or performance analyses that Your Hospital receives.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff’s communication, if any, with the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System, all non-parties to this litigation, has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objection, Plaintiff communicates with Tenet stakeholders, including employees who work to support the Palm Beach Health Network, on a range of matters, including issues related to patient safety and outcomes and in particular related to TLG and the Safety Grades by email and oral communication. Those communications included discussions about the reasons for particular grades, the method used to calculate Safety Grades, the value of Safety Grades, and responses to the Safety Grades. In addition, identified below are documents Plaintiff produced evidencing communications between the Plaintiff Hospitals and Tenet related to TLG, the Leapfrog survey, and Safety Grades.

Start Page	End Page
PBHN000006509	PBHN000006513
PBHN000004819	PBHN000004821
PBHN000006397	PBHN000006401
PBHN000002090	PBHN000002094
PBHN000002071	PBHN000002071
PBHN000004562	PBHN000004563

PBHN000004564	PBHN000004564
PBHN000004574	PBHN000004581
PBHN000004565	PBHN000004569
PBHN000004704	PBHN000004704
PBHN000004715	PBHN000004719
PBHN000006465	PBHN000006466

Discovery is ongoing, and Plaintiff reserves the right to amend, modify or supplement the response to this Interrogatory.

Interrogatory No. 18: State whether the compensation of Your Chief Executive Officer or any other executive-level leadership officers is tied to or related in any way to Your hospital's performance on patient safety, union worker contracts or Your hospital's ratings by third party ratings organizations' ratings publications (including but not limited to the Leapfrog Hospital Safety Grade).

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff's method of compensating its Chief Executive Officer and other executive-level leadership **has nothing to do with the** claims and defenses in this case related to TLG's decision to use deceptive business practices.

Answer: TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objection, Plaintiff's performance on patient safety, union worker contracts, or ratings by third party ratings organizations' ratings publications is related in some way to the compensation of Plaintiff's Chief Executive Officer or other executive-level leadership officer(s).

Interrogatory No. 19: Identify all hospitals, medical centers, or healthcare systems that you consider to be your direct competitors within the relevant geographic market during the time period covered by the Complaint and describe in detail the criteria you use to determine whether another hospital or healthcare provider is a competitor.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. The identity of Plaintiff's competitors and "the criteria" used to determine whether a hospital or provide is a competitor has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff also objects to this Interrogatory to the extent it seeks confidential, proprietary information, and commercially sensitive information related to Plaintiff's scoring system and "criteria" used to determine whether a hospital or provide is a competitor.

Answer: Subject to the foregoing objections and on condition that this response is considered “Confidential” under the forthcoming agreed confidentiality order.

Jupiter Medical Center is Plaintiff’s competitor. Plaintiff considers this hospital a competitor because of its proximity to Plaintiff, its competing services lines, and that patients within Plaintiff’s service area go to this hospital for medical care.

Interrogatory No. 20: State and describe the results of any market analysis, competitive analysis, or consumer perception surveys you have conducted or commissioned regarding your competitors from 2020 to present, and identify the individuals or entities that prepared or participated in such analyses.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not is not proportional to the needs of this Action. The results of any market analysis, competitive analysis, or consumer perception surveys and the identity of those who prepared or participated in such analyses has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Plaintiff further objects to this Interrogatory to the extent it requests information from outside of the relevant time period of January 1, 2023, to present. Plaintiff also objects to this Interrogatory as unduly burdensome to the extent it asks Plaintiff to “state and describe” various market analysis.

As agreed during the parties’ meet and confer on September 3, 2025, Plaintiff will produce documents showing the results of studies or surveys Plaintiff has conducted or commissioned related to internal market analysis, competitive analysis, or consumer perception. Plaintiff will

identify the documents responsive to this Interrogatory by Bates number in Plaintiffs' production cover letter.

Interrogatory No. 21: Identify with specificity any comments or concerns raised by any third party payor, bank or lender, or investor related to Your hospital's reputation and/or public perception on issues in any way involving patient safety or satisfaction.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not proportional to the needs of this case to the extent it seeks "comments and concerns" from third parties related generally to Plaintiff's reputation that has nothing to do with the specific and significant reputational harm caused by TLG's misleading grades.

Answer: Subject to the foregoing objections, Plaintiff will produce and identify documents related to the significant reputational harm caused by TLG's deceptive and unfair Safety Grades that provide sufficient detail to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objections, Plaintiff is unaware of any documents related to this Interrogatory.

Interrogatory No. 22: Identify and describe any complaints, concerns, or comments from patients, community members, or referring physicians that relate to the hospital's reputation or comparisons to other hospitals in the region.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not proportional to the needs of this Action to the extent it seeks "comments and concerns" from patients, community members, or referring physicians that have nothing to do with the significant

reputational harm caused by TLG's misleading grades. Plaintiff also objects to this interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to the agreed protective order entered by this Court.

Answer: Subject to the foregoing objections, Plaintiff has received reports that patients and physicians considered or decided not to use Plaintiff's facility because of TLG's misleading grades.

Amended Answer: Subject to the foregoing objections, Plaintiff has received reports that patients and physicians considered or decided not to use Plaintiff's facility because of TLG's misleading grades. In addition, concerns have been raised by patients, doctors, staff, and community members, and Plaintiff is aware of false and misleading statements based on TLG's false and misleading methodology and Safety Grades made in newspapers, viral social-media videos, television programs, and blogs.

We have received reports from patients that they decided not to use our hospital due to the misleading grade TLG assigned to the hospital. Our Medical Executive Committee has received direct inquiries from patients regarding their concerns about TLG's grades and related public reports. Patients have asked independent physicians that use both our facilities and those of Jupiter Medical Center (a nearby hospital) to schedule their surgeries at Jupiter Medical Center and not at ours. These independent surgeons have told us that they believe TLG has misled these patients about the quality of the Medical Center because these surgeons believe our hospital provides higher-quality care. Doctors have had patients express that they do not want to come to the Medical Center, specifically because of the Leapfrog grade. The harm caused by TLG's false and misleading Safety Grade is ongoing.

In addition, the following produced documents evidence such harm.

Start Page	End Page
PBHN000006771	PBHN000006773
PBHN000002082	PBHN000002085
PBHN000002066	PBHN000002070
PBHN000002615	PBHN000002617
PBHN000006397	PBHN000006401
PBHN000002090	PBHN000002094
PBHN000004484	PBHN000004484

PBHN000004562	PBHN000004563
PBHN000004564	PBHN000004564
PBHN000004574	PBHN000004580
PBHN000004557	PBHN000004557
PBHN000008718	PBHN000008718
PBHN000006461	PBHN000006462
PBHN000008914	PBHN000008914
PBHN000008915	PBHN000008915

Discovery is ongoing, and Plaintiff reserves the right to amend, modify or supplement the response to this Interrogatory.

Interrogatory No. 23: List with specific detail each and every concern, complaint or comment made by any union, collective bargaining unit or employee association in any way related to patient safety at Your hospital.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “each and every concern, complaint or comment ” from third parties that have nothing to do with the significant reputational harm caused by TLG’s misleading grades. Plaintiff also objects to this Interrogatory to the extent it seeks health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to the agreed protective order entered by this Court.

Answer: Subject to the foregoing objections, Plaintiff is unaware of any concern, complaint or comment regarding TLG deceptive scores made by the union at Plaintiff's hospital.

Amended Answer: Union personnel have in the past registered complaints or disagreements with Plaintiff's hospital's management, including alleged concerns about patient safety. Plaintiff carefully considers such allegations but finds generally that they are attempts to gain leverage in contract negotiations and are less genuine concern about patients. The union at Plaintiff's hospital made allegations in December 2023, February 2024, and March 2024. On April 5, 2024, the union publicly retracted those statements, rightly saying they were "entirely inappropriate to make," that "the Union should not have made the negative statements," and one after another, that the union did "not have any basis for believing" the accusations were true. After that, the union made only one other accusation of which Plaintiff is aware, and that was on April 10, 2024 concerning allegedly high turnover. But, the union's proposed remedies showed that the accusation was only an ordinary attempt to increase member wages: four of its five recommended "resolution[s]" were raising wages. The last "resolution" was that "hospital must staff based on the acuity of the patient," which Plaintiff already does. Plaintiff looked into the allegations anyways and found they lacked merit.

Interrogatory No. 24: Identify any and all criticism You have received since 2020 from Tenet Healthcare Corporation and/or from any individual executive of Tenet Healthcare Corporation regarding Your hospital's performance in any way.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Any so-called "criticism" has nothing to do with the claims and defenses related to TLG's decision to use

deceptive business practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Amended Answer: As discussed during the parties' meet and confer on September 3, 2025, TLG agreed to narrow this Interrogatory to concern only "criticism...regarding Your hospital's patient safety." After a reasonable and diligent search, Plaintiff is unaware of having received "criticism" from Tenet Health Corporation regarding patient safety. Plaintiff is always working to improve its performance, quality, and safety in a constructive way and engages with Tenet Health Corporation as needed to ensure Plaintiff provides the best patient care possible.

Dated: September 8, 2025

Respectfully submitted,

By: /s/ Lee R. Crain

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*Attorneys for Palm Beach Gardens Medical
Center*

CERTIFICATE OF SERVICE

This is to certify that true and correct copies of Plaintiff's Amended and Supplemented Responses and Objections to Defendant The Leapfrog Group's First Sets of Interrogatories to Plaintiff have been served on counsel for The Leapfrog Group by electronic transmission.

/s/ Lee R. Crain
Lee R. Crain

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.

**AFFIDAVIT OF ERIK CAZARES IN SUPPORT OF
PLAINTIFF PALM BEACH GARDENS MEDICAL CENTER'S
AMENDED AND SUPPLEMENTED RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP'S FIRST SET OF
INTERROGATORIES TO PALM BEACH GARDENS MEDICAL CENTER**

I, Erik Cazares, declare as follows:

1. I am over 21 years of age and competent to give this testimony.
2. I am the Chief Executive Officer of Palm Beach Gardens Community Hospital, Inc. d/b/a Palm Beach Gardens Medical Center ("Plaintiff"). I am the corporate representative of Plaintiff for the purpose of answering Defendant The Leapfrog Group's First Set of Interrogatories to Palm Beach Gardens Medical Center. I have read the foregoing interrogatories and the answers to those interrogatories, which are true according to the best of my knowledge, information, and belief.
3. I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 8, 2025.



Erik Cazares

EXHIBIT 4D

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.

**PLAINTIFF ST. MARY’S MEDICAL CENTER, INC.’S
AMENDED AND SUPPLEMENTED RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP’S FIRST SET OF
INTERROGATORIES TO ST. MARY’S MEDICAL CENTER, INC.**

Pursuant to Federal Rules of Civil Procedure 26 and 33 and the *Pretrial Scheduling Order and Order Referring Case to Mediation* (ECF No. 36) (the “Pretrial Scheduling Order”), Plaintiff St. Mary’s Medical Center, Inc. (“Plaintiff” or “St. Mary’s”), by and through its undersigned counsel, hereby submit its amended and supplemented responses and objections (“Responses”), to Defendant The Leapfrog Group’s (“TLG”) First Set of Interrogatories, dated July 11, 2025 (the “Interrogatories” and each numbered interrogatory, an “Interrogatory”) in the above-captioned action (the “Action”).

Plaintiff’s Responses to the Interrogatories are made solely for purposes of this Action and to the best of Plaintiff’s present knowledge, information, and belief regarding the matters about which inquiry have been made. Discovery is ongoing, and Plaintiff reserves the right to amend, supplement, clarify, or further explain its Responses at any time prior to the trial in

this Action. Plaintiff further reserves the right to raise any additional objections deemed necessary or appropriate in light of any further review.

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. Plaintiff objects to the definition of terms “Plaintiffs” and “Plaintiff Hospitals” as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it seeks to require Plaintiffs to respond on behalf of entities or individuals other than themselves.

2. Plaintiff objects to the definition of the terms “St. Mary’s” and “St. Mary’s Medical Center,” “Plaintiff,” “You,” and “Your” to the extent each term seeks to require Plaintiff to respond on behalf of entities or individuals other than itself, including on behalf of agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

3. Plaintiff objects to the definition of the terms “Tenet Healthcare” and “Tenet” to the extent it seeks to require Plaintiff to respond on behalf of entities or individuals other than itself, including on behalf of Tenet, Tenet’s agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

4. Plaintiff objects to the definition of “identify, when referring to a person,” as overbroad and unduly burdensome to the extent it calls for the “address” and “present or last-known employer” of identified individuals. Such information is overbroad and beyond the scope of permissible discovery.

5. Plaintiff objects to the instruction that the relevant time period for the Interrogatories begins on January 1, 2020. Plaintiff will apply to each Interrogatory the time period

of November 1, 2023 to present (the “Relevant Time Period”). Any response to an Interrogatory that provides information that falls outside of the Relevant Time Period should not be construed as an admission that the Relevant Time Period begins prior to November 1, 2023.

SPECIFIC RESPONSES TO INTERROGATORIES

Interrogatory No. 1: State the full name, address, job title or position, and hospital or employer affiliation of all individuals that assisted with responding to these interrogatories.

Answer: The following individuals assisted with responding to these Interrogatories.

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Cynthia McCauley	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Chief Executive Officer	St. Mary’s Medical Center
Regina West	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Market Quality Director	Palm Beach Health Network and St. Mary’s Medical Center

Interrogatory No. 2: Identify every individual not identified in Your Rule 26(a) initial disclosures with knowledge of facts pertaining to the allegations in Your Complaint in this Lawsuit (and any subsequent amendments) and/or whom You believe may have discoverable knowledge, information or data regarding this matter, including those who You expect to call as a fact or opinion witness at any hearing in this proceeding or whose testimony (by affidavit, deposition or testimony) You intended to submit in connection with this proceeding, and the substance of his/her testimony or affidavit, and, with respect to each person identified, provide:

- A. full name,
- B. address,
- C. telephone number,
- D. job title or position,
- E. hospital or employer affiliation,
- F. and describe in detail the facts possessed by each such person.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of “every individual...with knowledge” or who “may have discoverable knowledge, information or data regarding this matter.” Plaintiff will not provide more than the identity of individuals most likely to have knowledge regarding this matter. Plaintiff further objects to this Interrogatory as premature because it requests disclosure of Plaintiff’s witnesses for hearings and the substance of witness testimony before such disclosure is required under applicable law or the Pretrial Scheduling Order. Plaintiff will submit its trial witness list on October 2, 2025, per the Pretrial Scheduling Order, and disclose any other witnesses and witness testimony as further ordered by the Court or otherwise required by applicable law. Plaintiff also objects to this Interrogatory’s request for the identity of “opinion witness[es]” as vague, since witnesses are either “fact” or “expert” witnesses. Plaintiff will interpret “opinion witness” to mean “expert witness.” Plaintiff submitted expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Answer: Subject to the foregoing objection, Plaintiff will amend its Rule 26(a)(1) Initial Disclosures to identify additional individuals who may have knowledge of facts pertaining to the allegations in the Complaint.

Amended Answer: In addition to those disclosed in Plaintiff’s supplemental disclosures, the following individuals may have relevant factual knowledge:

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Regina West	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Market Quality Director	Palm Beach Health Network and St. Mary’s Medical Center

In addition to the individuals identified above, persons identified in documents produced in this dispute have knowledge of facts pertaining to the allegations in the Amended Complaint. *See* Fed. R. Civ. P. 33(d). Discovery is ongoing, and Plaintiff reserves the right to supplement, amend, correct, clarify, or modify this Response as further information becomes available.

Interrogatory No. 3: Describe in detail all factual bases for Your contention that Leapfrog’s published Safety Grade for Your hospital was false, inaccurate, misleading, deceptive, or unfair. In so answering, identify with particularity each measure, data point, or metric that You contend was inaccurately reported, calculated, or misrepresented by Leapfrog in calculating the Safety Grade for Your hospital.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all factual bases” for Plaintiff’s contention. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure: Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory as premature to the extent it requests that Plaintiff “[d]escribe in detail all factual bases” to support its contention. *In re Reliance Fin. & Inv. Grp., Inc.*, 2006 WL 8435541, at *4 (S.D. Fla. Feb. 14, 2006) (Contention interrogatories “are more appropriately used after a substantial amount of discovery has been conducted--typically, at the end of the discovery period.”). Plaintiff also objects to this Interrogatory to the extent it attempts to limit or mischaracterize Plaintiff’s claim as just challenging the false, inaccurate, misleading, deceptive, or unfair nature of TLG’s Safety Grade. As the Court explained in its order denying TLG’s motion to dismiss, the core of the Complaint is “a challenge to Defendant’s representations about its methodology, which they claim mislead consumers by failing to distinguish between absent data and damning data, and professing that grades are not influenced by a hospital’s lack of survey participation.” *Order on Motion to Dismiss*

6 (ECF No. 41). Plaintiff also challenges the provably false facts and deceptive scoring system underlying these grades, which TLG admits it relies on to arrive at its deceptive Safety Grades.

Subject to the foregoing objections and as more fully stated in the *Amended Complaint* (ECF No. 74) (“Complaint”), TLG has engaged in deceptive and unfair business practices and misrepresentations when issuing the Safety Grade for Plaintiff’s hospital as part of TLG’s annual “Hospital Survey.” TLG posts these Safety Grades online at hospitalsafetygrade.org.

To arrive at these Safety Grades, TLG uses CMS data, survey responses from participating hospitals, and other supplemental data sources. For participating hospitals, TLG uses the hospitals’ self-reported responses to the Hospital Survey for 12 of the 22 measures. For non-participating hospitals, TLG uses other sources for those 12 measures. For the remaining four measures—Computerized Physician Order Entry, Bar Code Medication Administration, ICU Physician Staffing, and Hand Hygiene Score (the “Deceptive Score Categories”)—TLG devised and uses a so-called “imputation model.” Prior to Fall 2024, TLG’s imputation model assigned non-participating hospitals a score based on the average score applicable to a similarly situated hospital. Beginning in Fall 2024, TLG modified its imputation model. TLG now assigns the lowest possible score to non-participating hospitals, which has the effect of punishing non-participating hospitals and artificially deflating their Safety Grades. TLG has even admitted the changes in Fall 2024 were designed to penalize non-participating hospitals. TLG also misleads consumers about how it grades hospitals, stating “[t]he Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the [TLG] Hospital Survey.” *Declaration of Lee Crain* (ECF No. 21) (“Crain Decl.”), Ex. 1 at 4 (“Frequently Asked Questions About the Leapfrog Hospital Safety Grade”).

As TLG explains, “not all hospitals have enough data publicly available to be eligible for a grade.” Crain Decl. Ex. 1 at 5. “As per the National Expert Panel guidance, [TLG] has requirements for the minimum amount of data [it] need[s] to issue an accurate grade.” Crain Decl. Ex. 1 at 5. According to TLG, “[h]ospitals missing more than six process measures” are “not graded.” Crain Decl. Ex. 2 at 6. Non-participating hospitals should fall easily into that “not graded” bucket, because their decision not to participate in TLG’s survey necessarily means TLG is missing seven process measures that rely on voluntary submission of hospital data.¹

TLG then deceptively conceals how it makes up grades for the four “imputation” measures and even suggests on its website that TLG *does* have data sufficient to score TLG on those four measures. By way of example, TLG acknowledges that Plaintiff “Declined to Report” information in response to questions about “Staff work[ing] together,” but then tells consumers—as if it were a fact—that Plaintiff is “Worse Than Average” on “Handwashing,” “Communication,” “medication administration,” and the like—even though TLG has no basis whatsoever to adopt those conclusions. Crain Decl. Ex. 32 at 2. TLG itself says handwashing is among the “most important” measures in its survey, Crain Decl. Ex. 15 at 4, yet it deceptively conceals that it has no data with which to grade the Plaintiff hospital on that measure. *Defendant The Leapfrog Group’s Responses to Plaintiffs’ Requests for Production* at 7 (“Leapfrog is not itself in possession of data showing Plaintiffs’ performance on the ‘imputed metrics’ considered by the methodology.”). Of course, Plaintiff in fact has a comprehensive and thorough handwashing policy. And had Plaintiff merely filled out TLG’s survey, it would have received a full letter grade higher on TLG’s score. *Expert Report of Professor Sean Nicholson* (Aug. 7, 2025), Ex. 6.

¹ Those seven include CPOE, BCMA, IPS, Safe Practice 1: Culture of Leadership Structures and Systems; Safe Practice 2: Culture Measurement, Feedback & Intervention; Total Nursing Care Hours per Patient Day; and Hand Hygiene.

Based on the foregoing, and as more fully set forth in the Complaint, TLG engages in deceptive trade practices by, among other things, deceiving consumers about its grading methods by implying that Plaintiff has failed on certain measures that, in truth, TLG has no data or other basis to evaluate; deceiving consumers by telling them the Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the Hospital Survey; deceiving consumers when it represents that it does not grade hospitals if it lacks sufficient data, when, in truth, it does grade hospitals by “imputing” or making up a grade for the Deceptive Score Categories; hiding the truth about its “imputation model” from consumers by burying it in fine print on a separate website; punishing non-participating hospitals by “imputing” scores, which artificially deflate a hospital’s Safety Grade; and favoring participating hospitals. Additional factual bases for the Plaintiff’s claims are presented in the Complaint.

Interrogatory No. 4: Describe the scoring or grading methodology You believe Leapfrog should have used to assess Your hospital’s patient safety performance and explain why that method would yield a different result.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff’s provision of an alternative scoring or grading methodology has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it calls for speculation.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objections, Plaintiff responds that TLG should use a scoring system that is not unfair or deceptive. By way of example only, TLG could decline

to grade hospitals that do not participate in TLG's survey, because their decision not to participate means TLG is missing seven process measures that rely on voluntary submission of hospital data. This would yield a different result, because the hospitals would not receive a grade at all. TLG's methodology certainly should not affirmatively assign an arbitrary low score to a particular metric just because a hospital does not provide data for that metric.

Interrogatory No. 5: State whether You submitted any data, corrections, or appeals to Leapfrog regarding the Safety Grade Your hospital received, and for each such submission, identify the date of the submission, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the submission, and the content of the submission.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Whether or not Plaintiff submitted "any data, corrections, or appeals to Leapfrog regarding the Safety Grade" Plaintiff hospital received has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Answer: Subject to the foregoing objections, Plaintiff engaged in correspondence prior to the commencement of this case demanding that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, but at every turn TLG refused.

Amended Answer: Subject to the foregoing objections, Plaintiff did not submit any data, corrections or appeals to Leapfrog regarding the Safety Grades it has received.

Interrogatory No. 6: State whether You provided any comment or input in any form during Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety

Grade methodology that was proposed for the calculation of Hospital Safety Grades (including but not limited to for the Fall 2024 methodology update). If yes, please identify the date of the comment, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the comment and the content of the comment. If no, please state the reason why You chose not to comment.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Whether or not Plaintiff submitted “any comment or input” in response to TLG’s request for public comments has nothing to do the with claims and defenses in this case related to TLG’s decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG’s possession, custody and control, or equally available to TLG.

Subject to the foregoing objections, Plaintiff did not provide comments in response to Leapfrog’s requests for public comments for planned updates to the Leapfrog Hospital Safety Grade scoring system because Plaintiff generally does not respond to requests for public comment from private entities like TLG.

Interrogatory No. 7: Describe all actions Your hospital took in response to (or in deciding not to respond to) its Safety Grade or the Hospital Survey, including internal meetings, media statements, or public relations efforts. In so answering, state the date of the action, the individuals involved in the action and the content of the action.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all actions” Plaintiffs may have taken in response to TLG’s Safety Grades. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, No. 14-81476-CIV, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’

facts or witnesses that support an opposing party's case" to be "unduly broad") (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure: Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Answer: Subject to the foregoing objections, Plaintiff devoted substantial time and resources that could have otherwise been spent continuing to improve patient care to respond to the significant harm and disruption caused by TLG's deceptive and unfair Safety Grade. Plaintiff's response included meeting internally with Plaintiff's leadership team, medical executive committee, and governing board, corresponding with TLG to demand that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, and devoting substantial time and resources to facilitate the preparation and prosecution of this Action.

Amended Answer: Subject to the foregoing objections, Plaintiff devoted substantial time and resources that could have otherwise been spent continuing to improve patient care to respond to the significant harm and disruption caused by TLG's deceptive and unfair Safety Grades. Plaintiff's response included meeting internally with Plaintiff's leadership team, medical executive committee, and governing board, corresponding through Plaintiff's corporate parent with TLG to demand that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, and devoting substantial time and resources to facilitate the preparation and prosecution of this Action. Plaintiff has also held many phone calls and meetings with physicians and other stakeholders about the TLG grades, explaining how the grades were deceptive and did not accurately reflect the hospital quality and patient safety at Plaintiff.

Interrogatory No. 8: Identify any and all persons, whether internal or external (e.g., patients, vendors, affiliates, parents, agents, partners, media) with whom You communicated in any way with respect to the Safety Grade or the Hospital Survey. In so answering, state the date of the communication, the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.) and the content of the communication.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of “any and all persons, whether internal or external.” Plaintiff will disclose the categories of individuals with whom Plaintiff communicated about the Safety Grade or Hospital Survey during the Relevant Time Period. Plaintiff also objects to this Interrogatory to the extent it seeks protected health information that Health Insurance Portability and Accountability Act (“HIPAA”), among other statutes and regulations, bars Plaintiff from disclosing. Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Answer: Subject to the foregoing objections, Plaintiff communicated with the following categories of people regarding the Safety Grade or the Hospital Survey: Plaintiff’s governing board, its medical executive committee, department directors, and physicians and nurses when asked about the Safety Grade or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grade for Plaintiff’s hospital. Most of these communications occurred during regularly scheduled meetings, during which attendees were told about TLG’s release of the deceptive and unfair Safety Grade, that Plaintiff does not participate in the Hospital Survey because it is unreliable and not an accurate reflection of hospital quality and safety or patient outcomes, and that the Safety Grade, which was not based on any

information provided by Plaintiff, was misleading. The Palm Beach Health Network also issued a press release and since then, has engaged in various social networking and other marketing campaigns to counteract TLG's deceptive scores on behalf of Plaintiff and other affected members of the network.

Amended Answer: Subject to the foregoing objections, Plaintiff communicated with the following categories of people regarding the Safety Grade or the Hospital Survey: Plaintiff's governing board, its medical executive committee, department directors, physicians and nurses, and patients when asked about the Safety Grades or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grades for Plaintiff's hospital. Most of these communications occurred during regularly scheduled meetings, during which attendees were told about TLG's release of the deceptive and unfair Safety Grade, that Plaintiff does not participate in the Hospital Survey because it is unreliable and not an accurate reflection of hospital quality and safety or patient outcomes, and that the Safety Grade, which was not based on any information provided by Plaintiff, was misleading. The Palm Beach Health Network also issued a press release and has engaged in marketing efforts, including through social media, to counteract TLG's deceptive scores on behalf of Plaintiff and other affected members of the network. Plaintiff also engaged in email discussions about TLG's misleading grades, either as sender or recipient, which TLG has through Plaintiff's production of documents.

Interrogatory No. 9: Describe all instances in which a third party declined to contract with, refer patients to, or work with Your hospital, where Leapfrog's grade was cited or discussed. In so identifying list the name of the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.), the date of the communication and the content of the communication.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it requires Plaintiff to “[d]escribe all instances” in which a third party took an action in response to TLG’s deceptive grade.

Subject to the foregoing objection, Plaintiff is not aware of any responsive instances.

Interrogatory No. 10: Describe with specificity the basis for each and every category of damage You claim You incurred as a result of the Leapfrog Safety Grade. In so identifying, list each category of damages and the dollar value of each category of damage You claim.

Plaintiff objects to this Interrogatory to the extent it seeks information that is the subject of expert testimony.

Answer: Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Amended Answer: Plaintiff has served the expert report of Thomas Chakurda, which addresses the issue of reputational harm and harm to Plaintiff’s goodwill. Plaintiff further objects to this Interrogatory as overbroad and unduly burdensome to the extent it seeks “each and every” category of claimed damages.

Subject to the foregoing objections and as agreed during the parties’ September 3, 2025 meet and confer, Plaintiff will limit its response to the live non-monetary claims, including injunctive and declaratory relief, to remedy harm to Plaintiff’s reputation and goodwill. Plaintiff’s reputation and goodwill has been damaged by TLG’s false and misleading methodology and resulting Safety Grades. Plaintiff’s claim for reputational harm is based on, among other things, concerns raised by patients, doctors, staff, and community members, as well as false and misleading statements based on TLG’s false and misleading methodology and Safety Grades made in newspapers, viral social-media videos, television programs, and blogs.

By way of example, our Board of Directors has informed me that they have been barraged by community constituents and leaders about the Medical Center's poor TLG Hospital Safety Grade. Further, our medical leadership has received direct inquiries from patients regarding their concerns about TLG's grades and related public reports. The harm caused by TLG's false and misleading Safety Grade is ongoing.

Interrogatory No. 11: Identify all adverse patient events which occurred at Your hospital, including any citations received from regulatory agencies, accrediting agencies, and third party payors such as The Joint Commission, CMS, state health departments, etc. during the period covered by each Leapfrog Safety Grade publication of which You complain (i.e., Fall 2024, Fall 2025, etc.), as well as any complaints received from patients regarding the same.

Plaintiff objects to this Interrogatory because it is overly broad, unduly burdensome, seeks discovery of information that is irrelevant to the claims and defenses in this Action, seeks information that is beyond the scope of Leapfrog's Hospital Survey, and is not reasonably calculated to lead to the discovery of admissible evidence. TLG does not include "all adverse patient events," "citations received from" agencies or payors, or "complaints received from patients" in TLG's determination of its Hospital Safety Grades or request such information in the Hospital Survey, so any such information is irrelevant to whether TLG's actions constitute unfair or deceptive trade practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff also objects to this Interrogatory to the extent it seeks protected health information that HIPAA, among other statutes and regulations, bars Plaintiff from disclosing.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Defendant has agreed to withdraw this Interrogatory.

Interrogatory No. 12: Describe in detail how Your hospital compares nationally on on [sic] any other ranking of patient safety performance, including but not limited to Vizient, Inc., Premier, Inc., HealthTrust Purchasing Group, The Joint Commission, HealthGrades, US News, Newsweek,

Statista, Definitive Healthcare, or any other quality benchmarking entity including benchmarking on patient safety including on adverse events and on healthcare-acquired infections.

Plaintiff objects to this Interrogatory's request that Plaintiff "[d]escribe in detail how Your hospital compares nationally" based on undisclosed "benchmarking" as vague and confusing. To the extent this Interrogatory seeks the top-line rankings of the identified organizations, Plaintiff objects to this Interrogatory because such information is publicly and equally available to TLG. To the extent this Interrogatory asks Plaintiff to compare itself to the named and unnamed entities, that request is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Other organizations' rankings have nothing to do with the claims and defenses in this case related to the Deceptive Score Categories or TLG's decision to use deceptive business practices.

Answer: Subject to the foregoing objections, Plaintiff has received numerous awards and accolades, including many that are directly relevant to patient care for both the low-income underserved community in which it resides and the greater central Florida east coast.

Plaintiff has several accreditations that demonstrate the high-quality of care it provides to pregnant women and children in the community. For example, it is an accredited acute care hospital that is a Level I adult and pediatric Trauma Center. A Level I Trauma Center is a healthcare facility that is central to the trauma system and capable of providing the highest level of care for every aspect of injury for both adults and children. Plaintiff is also a Level III NICU, meaning it provides lifesaving care for babies born before 32 weeks' gestation and / or weighing less than 1,500 grams (approximately 3.3 pounds) or babies with specific medical conditions that require

surgery or specialized pediatric care. Additionally, Plaintiff is one of only 11 designated hospitals by the Florida Department of Health as a Regional Perinatal Intensive Care Center (RPICC) that provides obstetrical services to women who have a high-risk pregnancy and care for newborns with special health needs, such as critical illness or low birth weight. Plaintiff is also certified by the American College of Surgeons for the Verified Pediatric Surgery Program, which recognizes hospitals that properly address the surgical care of infants and children.

Plaintiff is also a Commission on Accreditation of Rehabilitation Facilities (“CARF”) accredited facility for its stroke, brain injury and amputation specialty services. Achieving CARF accreditation means that our hospital meets CARF’s standards and has demonstrated a commitment to being among the best available to patients. We are also a Certified Comprehensive Stroke Center, which means we are dedicated to raising the bar for evaluating and evolving the care of patients at every part of the stroke care continuum. Additionally, Plaintiff has achieved a Det Norske Veritas (DNV) for Comprehensive Stroke Certification. A DNV Comprehensive Stroke Certification demonstrates that Plaintiff provides the highest quality of care and offers evidence-based treatments with cutting-edge research protocols for stroke patients. In order to be accredited, Plaintiff had to undergo an on-site visit on a triennial basis, in which a trained DNV site visit reviewer visits the facility and reviews its required stroke program activity documentation to ensure compliance with the standards. The entities that award and assign these accreditations and certifications visit the healthcare facility and perform regular periodic in-person reviews, audits, surveys and assessments of the facility.

Additionally, Plaintiff is accredited by the Joint Commission, the nation’s largest hospital accreditor that evaluates hospitals’ quality performance standards through an objective evaluation process. Plaintiff has been accredited by the Joint Commission for specialization certifications for

Spine Surgery and Total Joint Replacement for Hip and Knee—a certification designed for hospitals providing the critical elements to achieve long-term success in improving critical medical outcomes—which signifies our services have delivered evidence-based proof of clinical quality sought by patients and payers alike.

These accreditations and certifications are particularly important given Plaintiff's patient population. With its accreditation and specialties, Plaintiff provides patients care they are not able to receive at other facilities. Plaintiff sees more transfers to its facility from nearby hospitals who are unable to provide patients with the care they need than any other Palm Beach County hospital. Also, due to its location in a low-income community, Plaintiff treats a significant number of high-risk pregnancies in which infant mortality is a serious risk and heartbreaking reality.

Plaintiff has also received numerous awards that exemplify its quality. Plaintiff received multiple Get with the Guidelines awards, including Stroke Gold Plus Award 2024 (13th Consecutive Year); Stroke Elite Plus Honor Roll; Stroke Advance Therapy Honor Roll; and Type 2 Diabetes Honor Roll. The Get with the Guidelines Stroke program is designed to improve stroke care by promoting consistent adherence to the latest scientific treatment guidelines.

Additionally, Plaintiff has been recognized by BlueCross BlueShield with a Blue Distinction Centers for Knee, Hip Replacements, Spine Surgery and Maternity Care designation, as part of the Blue Distinction Specialty Care program. The Blue Distinction Specialty Care is a national designation program that recognizes health providers that demonstrate expertise in quality and affordable health care to meet consumers' specialty care needs.

Plaintiff has also received numerous awards that recognize the high-quality care it provides to pregnant women and children. For example, it recently received the Florida Department of Health and Florida Agency for Health Care Administration Excellence for Maternal Care Award,

which highlights hospitals that surpass Florida Department of Health's goal of reducing the rate of C-sections among first-time mothers with low-risk pregnancies. Similarly, the Florida Hospital Association also recently awarded Plaintiff the Excellence in Maternity Care designation, which is awarded to a hospital that demonstrates exceptional dedication to maternal health care.

Additionally, the Palm Beach Post has awarded Plaintiff with Community Choice Awards for Best Hospital, Best Orthopedic/Sports Medicine 2024 and Best Maternity and Childbirth Center 2024 & 2025. The Palm Beach County Community Choice Awards celebrate the best business and organizations in the area, with people in the community voting on these designations.

The medical rankings organization Healthgrades awarded Plaintiff numerous accolades. To assess and evaluate hospitals, Healthgrades relies on data from Medicare medical claims records and states' data on Medicare and commercially insured patient outcomes to determine patients' actual clinical outcomes when visiting a given hospital. Plaintiff has received several awards from Healthgrades for various specialties, including:

a. Labor and Delivery

- i. Five-Star Recipient for C-Section Delivery for 11 years in a row
- ii. Five-Star Recipient for Vaginal Delivery for 11 years in a row

b. Orthopedic

- i. Five-Star Recipient for Hip Fracture Treatment (2024)
- ii. Five-Star Recipient for Knee Replacement (2024)

c. Spine Surgery

- i. Five-Star Recipient for Spinal Fusion (2025)

In addition, Plaintiff will produce and identify documents reflecting some of Plaintiff's rankings from other organizations.

Amended Answer: Subject to the foregoing objections, Plaintiff has received numerous awards and accolades. For example, Plaintiff has several accreditations that demonstrate the high-quality of care it provides to pregnant women and children in the community. For example, it is an accredited acute care hospital that is a Level I adult and pediatric Trauma Center. Additionally, Plaintiff is one of only 11 designated hospitals by the Florida Department of Health as a Regional Perinatal Intensive Care Center (RPICC) that provides obstetrical services to women who have a high-risk pregnancy and care for newborns with special health needs, such as critical illness or low birth weight. Plaintiff is also certified by the American College of Surgeons for the Verified Pediatric Surgery Program, which recognizes hospitals that properly address the surgical care of infants and children.

Plaintiff is also a Commission on Accreditation of Rehabilitation Facilities (“CARF”) accredited facility for its stroke, brain injury and amputation specialty services. We are also a Certified Comprehensive Stroke Center. Additionally, Plaintiff has achieved a Det Norske Veritas (DNV) for Comprehensive Stroke Certification.

Additionally, Plaintiff is accredited by the Joint Commission. Plaintiff also has been accredited by the Joint Commission for specialization certifications for Spine Surgery and Total Joint Replacement for Hip and Knee.

Plaintiff has also received multiple Get with the Guidelines awards, including Stroke Gold Plus Award 2024 (13th Consecutive Year); Stroke Elite Plus Honor Roll; Stroke Advance Therapy Honor Roll; and Type 2 Diabetes Honor Roll.

Additionally, Plaintiff has been recognized by BlueCross BlueShield with a Blue Distinction Centers for Knee, Hip Replacements, Spine Surgery and Maternity Care designation, as part of the Blue Distinction Specialty Care program.

Plaintiff recently received the Florida Department of Health and Florida Agency for Health Care Administration Excellence for Maternal Care Award. Similarly, the Florida Hospital Association also recently awarded Plaintiff the Excellence in Maternity Care designation.

Additionally, the Palm Beach Post has awarded Plaintiff with Community Choice Awards for Best Hospital, Best Orthopedic/Sports Medicine 2024 and Best Maternity and Childbirth Center 2024 & 2025.

The medical rankings organization Healthgrades awarded Plaintiff numerous accolades, including:

a. Labor and Delivery

- i. Five-Star Recipient for C-Section Delivery for 11 years in a row
- ii. Five-Star Recipient for Vaginal Delivery for 11 years in a row

b. Orthopedic

- i. Five-Star Recipient for Hip Fracture Treatment (2024)
- ii. Five-Star Recipient for Knee Replacement (2024)

c. Spine Surgery

- i. Five-Star Recipient for Spinal Fusion (2025)

In addition, Plaintiff will produce and identify documents reflecting some of Plaintiff's rankings from other organizations.

Also, Plaintiff does not participate in Vizient and has not done so during the Relevant Time Period.

Interrogatory No. 13: Describe any steps taken by Your hospital to improve any and all of the patient safety measures considered by Leapfrog's Hospital Safety Grade (as set forth on Leapfrog's published scoring methodology documents; see ECF No. 21-3 at 6-10; ECF No. 21-43 at 6-9), before and after each Safety Grade publication of which You complain.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of Plaintiff's improvements to "any and all" patient safety measures considered by Leapfrog's Hospital Safety Grade. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks information on metrics other than TLG's Deceptive Score Categories and to the extent it seeks information that is beyond the scope of Leapfrog's Hospital Survey.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objection, Plaintiff is committed to continual improvement of patient safety measures, motivated by our commitment to ensuring the best possible patient safety—not chasing the best possible Leapfrog grade. To achieve this core objective, Plaintiff devotes significant time and resources to improving its delivery of the highest possible quality of care for those in the community it serves, including efforts to improve its performance in areas related to the four metrics Plaintiff has chosen to impute in its survey.

Plaintiff tracks three of these metrics through its patient safety plan or as part of its quality improvement patient safety committee. For example, Plaintiff does random hand washing audits every month on every unit and addresses any negative trends. Plaintiff already has 24/7 ICU coverage for its intensivist unit and has had that coverage for several years, so it does not need to track this metric.

Interrogatory No. 14: State whether You are aware of specific patients who have relied on the Leapfrog Safety Grade in declining to receive healthcare services at Your hospital. In so

answering, identify the individual patient that declined to receive services, the date of such declination, the type of service the patient declined to receive, the medium for the communication from the patient (i.e. telephone, video conference, email, letter, etc.), the content of the communication, and the reason given for the stated decision.

Plaintiff objects to this Interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Answer: Subject to the foregoing objection, Plaintiff has received reports that patients considered or decided not to use Plaintiff's facility because of TLG's misleading grades.

Amended Answer: Subject to the foregoing objection, since the release of TLG's false and misleading grades, Plaintiff has received numerous reports from doctors that patients considered or decided not to use Plaintiff's facility due to concerns related to TLG's misleading grades.

Interrogatory No. 15: Describe any effort Your hospital has made to influence public perception of Your hospital's performance on patient safety following the publication of the Leapfrog Safety Grade.

Plaintiff objects to this Interrogatory as vague and ambiguous because it does not specify which Leapfrog Safety Grade is at issue. Plaintiff will construe this Interrogatory to reference TLG's deceptive Safety Grades beginning in Fall 2024. Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks "any effort" Plaintiff "has made to influence public perception" after the release of TLG's deceptive and unfair Safety Grades because there have been many such "efforts" and those "efforts" are ongoing given the significant harm caused by TLG's deceptive and unfair business practices.

Answer: Subject to the foregoing objections, Plaintiff continues to influence public perception by, among other things, delivering the highest quality care to the community it serves, which, as discussed in response to Interrogatory 12, has led to numerous awards, accreditations, and accolades. In addition, several public statements disputing the misleading nature of the Safety Grade have been made on Plaintiff's behalf.

Supplemental Answer: In addition to the above, members of hospital leadership have communicated with patients, doctors, or community members on a regular basis to dispel the misleading nature of the Leapfrog Safety Grades. For instance, Plaintiff communicated its governing board, its medical executive committee, department directors, physicians and nurses, and patients when asked about the Safety Grades or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grades for Plaintiff's hospital. The Palm Beach Health Network also issued a press release and has engaged in marketing efforts, including through social media, to counteract TLG's deceptive scores on behalf of Plaintiff and other affected members of the network. Plaintiff also engaged in email discussions about TLG's misleading grades, either as sender or recipient, which TLG has through Plaintiff's production of documents.

Interrogatory No. 16: Describe the due diligence Your hospital undertakes to ensure the accuracy of its own publicly reported safety data (including but not limited to data submitted to CMS, the CDC, and third party organizations).

Plaintiff objects to this Interrogatory as vague and ambiguous due to its use of the undefined term "due diligence." Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Any "due diligence"

Plaintiff performs when reporting to *third parties* has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices, especially when TLG does nothing to ensure the accuracy of information that hospitals that participate in its survey self-report.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objections, Plaintiff makes reasonable efforts to ensure the accuracy of the data it reports to third-party organizations. For instance, Plaintiff employs data abstractors, quality coordinators and a Quality Director, who are all responsible for abstracting, validating, and submitting safety data.

Interrogatory No. 17: Describe in detail how You communicate to the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System the outcome of any and all healthcare safety ratings, evaluative publications, studies, or performance analyses that Your Hospital receives.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff's communication, if any, with the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System, all non-parties to this litigation, has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objection, Plaintiff communicates with Tenet stakeholders, including employees who work to support the Palm Beach Health Network, on a range of matters, including issues related to patient safety and outcomes and in particular related

to TLG and the Safety Grades by email and oral communication. Those communications included discussions about the reasons for particular grades, the method used to calculate Safety Grades, the value of Safety Grades, and responses to the Safety Grades. In addition, identified below are documents Plaintiff produced evidencing communications between the Plaintiff Hospitals and Tenet related to TLG, the Leapfrog survey, and Safety Grades.

Start Page	End Page
PBHN000006509	PBHN000006513
PBHN000006548	PBHN000006550
PBHN000005092	PBHN000005093
PBHN000005094	PBHN000005096
PBHN000006397	PBHN000006401
PBHN000002090	PBHN000002094
PBHN000002071	PBHN000002071

PBHN000004562	PBHN000004563
PBHN000004564	PBHN000004564
PBHN000004574	PBHN000004581
PBHN000004565	PBHN000004569
PBHN000004704	PBHN000004704
PBHN000004715	PBHN000004719
PBHN000006465	PBHN000006466

Discovery is ongoing, and Plaintiff reserves the right to amend, modify or supplement the response to this Interrogatory.

Interrogatory No. 18: State whether the compensation of Your Chief Executive Officer or any other executive-level leadership officers is tied to or related in any way to Your hospital's performance on patient safety, union worker contracts or Your hospital's ratings by third party ratings organizations' ratings publications (including but not limited to the Leapfrog Hospital Safety Grade).

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff's method of compensating its Chief

Executive Officer and other executive-level leadership **has nothing to do with the** claims and defenses in this case related to TLG's decision to use deceptive business practices.

Answer: TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objection, Plaintiff's performance on patient safety, union worker contracts, or ratings by third party ratings organizations' ratings publications is related in some way to the compensation of Plaintiff's Chief Executive Officer or other executive-level leadership officer(s).

Interrogatory No. 19: Identify all hospitals, medical centers, or healthcare systems that you consider to be your direct competitors within the relevant geographic market during the time period covered by the Complaint and describe in detail the criteria you use to determine whether another hospital or healthcare provider is a competitor.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. The identity of Plaintiff's competitors and "the criteria" used to determine whether a hospital or provide is a competitor has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff also objects to this Interrogatory to the extent it seeks confidential, proprietary information, and commercially sensitive information related to Plaintiff's scoring system and "criteria" used to determine whether a hospital or provide is a competitor.

Answer: Subject to the foregoing objections and on condition that this response is considered "Confidential" under the forthcoming agreed confidentiality order, Jupiter Medical Center is Plaintiff's competitor. Plaintiff considers this hospital a competitor because of its

proximity to Plaintiff, its competing services lines, and that patients within Plaintiff's service area go to this hospital for medical care.

Interrogatory No. 20: State and describe the results of any market analysis, competitive analysis, or consumer perception surveys you have conducted or commissioned regarding your competitors from 2020 to present, and identify the individuals or entities that prepared or participated in such analyses.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not is not proportional to the needs of this Action. The results of any market analysis, competitive analysis, or consumer perception surveys and the identity of those who prepared or participated in such analyses has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Plaintiff further objects to this Interrogatory to the extent it requests information from outside of the relevant time period of January 1, 2023, to present. Plaintiff also objects to this Interrogatory as unduly burdensome to the extent it asks Plaintiff to "state and describe" various market analysis.

As agreed during the parties' meet and confer on September 3, 2025, Plaintiff will produce documents showing the results of studies or surveys Plaintiff has conducted or commissioned related to internal market analysis, competitive analysis, or consumer perception. Plaintiff will identify the documents responsive to this Interrogatory by Bates number in Plaintiffs' production cover letter.

Interrogatory No. 21: Identify with specificity any comments or concerns raised by any third party payor, bank or lender, or investor related to Your hospital's reputation and/or public perception on issues in any way involving patient safety or satisfaction.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not proportional to the needs of this case to the extent it seeks "comments and concerns" from third parties related generally to Plaintiff's reputation that has nothing to do with the specific and significant reputational harm caused by TLG's misleading grades.

Answer: Subject to the foregoing objections, Plaintiff will produce and identify documents related to the significant reputational harm caused by TLG's deceptive and unfair Safety Grades that provide sufficient detail to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objections, Plaintiff is unaware of any documents related to this Interrogatory.

Interrogatory No. 22: Identify and describe any complaints, concerns, or comments from patients, community members, or referring physicians that relate to the hospital's reputation or comparisons to other hospitals in the region.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not proportional to the needs of this Action to the extent it seeks "comments and concerns" from patients, community members, or referring physicians that have nothing to do with the significant reputational harm caused by TLG's misleading grades. Plaintiff also objects to this interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other

statutes and regulations. Plaintiff will only produce this information as needed and subject to the agreed protective order entered by this Court.

Answer: Subject to the foregoing objections, Plaintiff has received reports that patients and physicians considered or decided not to use Plaintiff's facility because of TLG's misleading grades.

Amended Answer: Subject to the foregoing objections, Plaintiff has received reports that patients and physicians considered or decided not to use Plaintiff's facility because of TLG's misleading grades. In addition, concerns have been raised by patients, doctors, staff, and community members, and Plaintiff is aware of false and misleading statements based on TLG's false and misleading methodology and Safety Grades made in newspapers, viral social-media videos, television programs, and blogs.

Our Board of Directors has informed me that they have been barraged by community constituents and leaders about the Medical Center's poor TLG Hospital Safety Grade. Further, our medical leadership has received direct inquiries from patients regarding their concerns about TLG's grades and related public reports. The harm caused by TLG's false and misleading Safety Grade is ongoing.

In addition, the following produced documents evidence such harm.

Start Page	End Page
PBHN000002082	PBHN000002085
PBHN000002066	PBHN000002070
PBHN000002615	PBHN000002617
PBHN000006397	PBHN000006401
PBHN000002090	PBHN000002094
PBHN000004484	PBHN000004484

PBHN000004564	PBHN000004564
PBHN000004574	PBHN000004580
PBHN000004557	PBHN000004557
PBHN000008718	PBHN000008718
PBHN000006461	PBHN000006462
PBHN000008914	PBHN000008914
PBHN000008915	PBHN000008915

Discovery is ongoing, and Plaintiff reserves the right to amend, modify or supplement the response to this Interrogatory.

Interrogatory No. 23: List with specific detail each and every concern, complaint or comment made by any union, collective bargaining unit or employee association in any way related to patient safety at Your hospital.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “each and every concern, complaint or comment ” from third parties that have nothing to do with the significant reputational harm caused by TLG’s misleading grades. Plaintiff also objects to this Interrogatory to the extent it seeks health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to the agreed protective order entered by this Court.

Answer: Subject to the foregoing objections, Plaintiff is unaware of any concern, complaint or comment regarding TLG deceptive scores made by the union at Plaintiff’s hospital.

Interrogatory No. 24: Identify any and all criticism You have received since 2020 from Tenet Healthcare Corporation and/or from any individual executive of Tenet Healthcare Corporation regarding Your hospital’s performance in any way.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Any so-called

“criticism” has nothing to do with the claims and defenses related to TLG’s decision to use deceptive business practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Amended Answer: As discussed during the parties’ meet and confer on September 3, 2025, TLG agreed to narrow this Interrogatory to concern only “criticism...regarding Your hospital’s patient safety.” After a reasonable and diligent search, Plaintiff is unaware of having received “criticism” from Tenet Health Corporation regarding patient safety. Plaintiff is always working to improve its performance, quality, and safety in a constructive way and engages with Tenet Health Corporation as needed to ensure Plaintiff provides the best patient care possible.

Dated: September 8, 2025

Respectfully submitted,

By: /s/ Lee R. Crain

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CERTIFICATE OF SERVICE

This is to certify that true and correct copies of Plaintiff's Amended and Supplemented Responses and Objections to Defendant The Leapfrog Group's First Sets of Interrogatories to Plaintiff have been served on counsel for The Leapfrog Group by electronic transmission.

/s/ Lee R. Crain
Lee R. Crain

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.

**AFFIDAVIT OF CYNTHIA MCCAULEY IN SUPPORT OF
PLAINTIFF ST. MARY'S MEDICAL CENTER, INC.'S
AMENDED AND SUPPLEMENTED RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP'S FIRST SET OF
INTERROGATORIES TO ST. MARY'S MEDICAL CENTER**

I, Cynthia McCauley, declare as follows:

1. I am over 21 years of age and competent to give this testimony.
2. I am the Chief Executive Officer of St. Mary's Medical Center, Inc. ("Plaintiff"). I am the corporate representative of Plaintiff for the purpose of answering Defendant The Leapfrog Group's First Set of Interrogatories to St. Mary's Medical Center. I have read the foregoing interrogatories and the answers to those interrogatories, which are true according to the best of my knowledge, information, and belief.
3. I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 8, 2025.

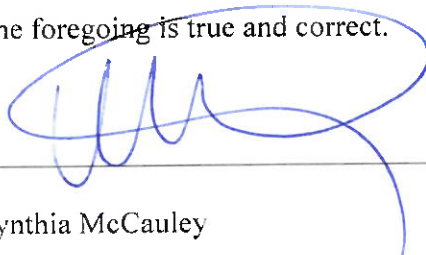

Cynthia McCauley

EXHIBIT 4E

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.

**PLAINTIFF WEST BOCA MEDICAL CENTER, INC.’S
AMENDED AND SUPPLEMENTED RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP’S FIRST SET OF
INTERROGATORIES TO WEST BOCA MEDICAL CENTER, INC.**

Pursuant to Federal Rules of Civil Procedure 26 and 33 and the *Pretrial Scheduling Order and Order Referring Case to Mediation* (ECF No. 36) (the “Pretrial Scheduling Order”), Plaintiff West Boca Medical Center, Inc. (“Plaintiff” or “West Boca Medical Center”), by and through its undersigned counsel, hereby submit its amended and supplemented responses and objections (“Responses”), to Defendant The Leapfrog Group’s (“TLG”) First Set of Interrogatories, dated July 11, 2025 (the “Interrogatories” and each numbered interrogatory, an “Interrogatory”) in the above-captioned action (the “Action”).

Plaintiff’s Responses to the Interrogatories are made solely for purposes of this Action and to the best of Plaintiff’s present knowledge, information, and belief regarding the matters about which inquiry have been made. Discovery is ongoing, and Plaintiff reserves the right to amend, supplement, clarify, or further explain its Responses at any time prior to the trial in

this Action. Plaintiff further reserves the right to raise any additional objections deemed necessary or appropriate in light of any further review.

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. Plaintiff objects to the definition of terms “Plaintiffs” and “Plaintiff Hospitals” as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it seeks to require Plaintiffs to respond on behalf of entities or individuals other than themselves.

2. Plaintiff objects to the definition of the terms “West Boca,” “West Boca Medical Center,” “Plaintiff,” “You,” and “Your” to the extent each term seeks to require Plaintiff to respond on behalf of entities or individuals other than itself, including on behalf of agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

3. Plaintiff objects to the definition of the terms “Tenet Healthcare” and “Tenet” to the extent it seeks to require Plaintiff to respond on behalf of entities or individuals other than itself, including on behalf of Tenet, Tenet’s agents, employees, directors, or other non-party entities that are not part of this litigation. Such information is overbroad and beyond the scope of permissible discovery. Accordingly, Plaintiff states that its Responses are on behalf of itself only.

4. Plaintiff objects to the definition of “identify, when referring to a person,” as overbroad and unduly burdensome to the extent it calls for the “address” and “present or last-known employer” of identified individuals. Such information is overbroad and beyond the scope of permissible discovery.

5. Plaintiff objects to the instruction that the relevant time period for the Interrogatories begins on January 1, 2020. Plaintiff will apply to each Interrogatory the time period

of November 1, 2023 to present (the “Relevant Time Period”). Any response to an Interrogatory that provides information that falls outside of the Relevant Time Period should not be construed as an admission that the Relevant Time Period begins prior to November 1, 2023.

SPECIFIC RESPONSES TO INTERROGATORIES

Interrogatory No. 1: State the full name, address, job title or position, and hospital or employer affiliation of all individuals that assisted with responding to these interrogatories.

Answer: The following individuals assisted with responding to these Interrogatories.

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Jerad Hanlon	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Chief Executive Officer	West Boca Medical Center
Regina West	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Market Quality Director	Palm Beach Health Network and St. Mary’s Medical Center

Interrogatory No. 2: Identify every individual not identified in Your Rule 26(a) initial disclosures with knowledge of facts pertaining to the allegations in Your Complaint in this Lawsuit (and any subsequent amendments) and/or whom You believe may have discoverable knowledge, information or data regarding this matter, including those who You expect to call as a fact or opinion witness at any hearing in this proceeding or whose testimony (by affidavit, deposition or testimony) You intended to submit in connection with this proceeding, and the substance of his/her testimony or affidavit, and, with respect to each person identified, provide:

- A. full name,
- B. address,
- C. telephone number,
- D. job title or position,
- E. hospital or employer affiliation,
- F. and describe in detail the facts possessed by each such person.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of “every individual...with knowledge” or who “may have discoverable knowledge, information or data regarding this matter.” Plaintiff will not provide more than the identity of individuals most likely to have knowledge regarding this matter. Plaintiff further objects to this Interrogatory as premature because it requests disclosure of Plaintiff’s witnesses for hearings and the substance of witness testimony before such disclosure is required under applicable law or the Pretrial Scheduling Order. Plaintiff will submit its trial witness list on October 2, 2025, per the Pretrial Scheduling Order, and disclose any other witnesses and witness testimony as further ordered by the Court or otherwise required by applicable law. Plaintiff also objects to this Interrogatory’s request for the identity of “opinion witness[es]” as vague, since witnesses are either “fact” or “expert” witnesses. Plaintiff will interpret “opinion witness” to mean “expert witness.” Plaintiff submitted expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Answer: Subject to the foregoing objection, Plaintiff will amend its Rule 26(a)(1) Initial Disclosures to identify additional individuals who may have knowledge of facts pertaining to the allegations in the Complaint.

Amended Answer: In addition to those disclosed in Plaintiff’s supplemental disclosures, the following individuals may have relevant factual knowledge:

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Regina West	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Market Quality Director	Palm Beach Health Network and St. Mary’s Medical Center

Full Name	Address	Job Title / Position	Hospital or Employer Affiliation
Andrea Nunes	c/o Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166	Quality Director	West Boca Medical Center

In addition to the individuals identified above, persons identified in documents produced in this dispute have knowledge of facts pertaining to the allegations in the Amended Complaint. *See* Fed. R. Civ. P. 33(d). Discovery is ongoing, and Plaintiff reserves the right to supplement, amend, correct, clarify, or modify this Response as further information becomes available.

Interrogatory No. 3: Describe in detail all factual bases for Your contention that Leapfrog’s published Safety Grade for Your hospital was false, inaccurate, misleading, deceptive, or unfair. In so answering, identify with particularity each measure, data point, or metric that You contend was inaccurately reported, calculated, or misrepresented by Leapfrog in calculating the Safety Grade for Your hospital.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all factual bases” for Plaintiff’s contention. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure: Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory as premature to the extent it requests that Plaintiff “[d]escribe in detail all factual bases” to support its contention. *In re Reliance Fin. & Inv. Grp., Inc.*, 2006 WL 8435541, at *4 (S.D. Fla. Feb. 14, 2006) (Contention interrogatories “are more appropriately used after a substantial amount of discovery has been conducted--typically, at the end of the discovery period.”). Plaintiff also objects to this Interrogatory to the extent it attempts to limit or mischaracterize Plaintiff’s claim as just

challenging the false, inaccurate, misleading, deceptive, or unfair nature of TLG’s Safety Grade. As the Court explained in its order denying TLG’s motion to dismiss, the core of the Complaint is “a challenge to Defendant’s representations about its methodology, which they claim mislead consumers by failing to distinguish between absent data and damning data, and professing that grades are not influenced by a hospital’s lack of survey participation.” *Order on Motion to Dismiss* 6 (ECF No. 41). Plaintiff also challenges the provably false facts and deceptive scoring system underlying these grades, which TLG admits it relies on to arrive at its deceptive Safety Grades.

Subject to the foregoing objections and as more fully stated in the *Amended Complaint* (ECF No. 74) (“Complaint”), TLG has engaged in deceptive and unfair business practices and misrepresentations when issuing the Safety Grade for Plaintiff’s hospital as part of TLG’s annual “Hospital Survey.” TLG posts these Safety Grades online at hospitalsafetygrade.org.

To arrive at these Safety Grades, TLG uses CMS data, survey responses from participating hospitals, and other supplemental data sources. For participating hospitals, TLG uses the hospitals’ self-reported responses to the Hospital Survey for 12 of the 22 measures. For non-participating hospitals, TLG uses other sources for those 12 measures. For the remaining four measures—Computerized Physician Order Entry, Bar Code Medication Administration, ICU Physician Staffing, and Hand Hygiene Score (the “Deceptive Score Categories”)—TLG devised and uses a so-called “imputation model.” Prior to Fall 2024, TLG’s imputation model assigned non-participating hospitals a score based on the average score applicable to a similarly situated hospital. Beginning in Fall 2024, TLG modified its imputation model. TLG now assigns the lowest possible score to non-participating hospitals, which has the effect of punishing non-participating hospitals and artificially deflating their Safety Grades. TLG has even admitted the changes in Fall 2024 were designed to penalize non-participating hospitals. TLG also misleads consumers about how

it grades hospitals, stating “[t]he Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the [TLG] Hospital Survey.” *Declaration of Lee Crain* (ECF No. 21) (“Crain Decl.”), Ex. 1 at 4 (“Frequently Asked Questions About the Leapfrog Hospital Safety Grade”).

As TLG explains, “not all hospitals have enough data publicly available to be eligible for a grade.” Crain Decl. Ex. 1 at 5. “As per the National Expert Panel guidance, [TLG] has requirements for the minimum amount of data [it] need[s] to issue an accurate grade.” Crain Decl. Ex. 1 at 5. According to TLG, “[h]ospitals missing more than six process measures” are “not graded.” Crain Decl. Ex. 2 at 6. Non-participating hospitals should fall easily into that “not graded” bucket, because their decision not to participate in TLG’s survey necessarily means TLG is missing seven process measures that rely on voluntary submission of hospital data.¹

TLG then deceptively conceals how it makes up grades for the four “imputation” measures and even suggests on its website that TLG *does* have data sufficient to score TLG on those four measures. By way of example, TLG acknowledges that Plaintiff “Declined to Report” information in response to questions about “Staff work[ing] together,” but then tells consumers—as if it were a fact—that Plaintiff is “Worse Than Average” on “Handwashing,” “Communication,” “medication administration,” and the like—even though TLG has no basis whatsoever to adopt those conclusions. Crain Decl. Ex. 32 at 2. TLG itself says handwashing is among the “most important” measures in its survey, Crain Decl. Ex. 15 at 4, yet it deceptively conceals that it has no data with which to grade the Plaintiff hospital on that measure. *Defendant The Leapfrog Group’s Responses to Plaintiffs’ Requests for Production* at 7 (“Leapfrog is not itself in possession

¹ Those seven include CPOE, BCMA, IPS, Safe Practice 1: Culture of Leadership Structures and Systems; Safe Practice 2: Culture Measurement, Feedback & Intervention; Total Nursing Care Hours per Patient Day; and Hand Hygiene.

of data showing Plaintiffs' performance on the 'imputed metrics' considered by the methodology.")). Of course, Plaintiff in fact has a comprehensive and thorough handwashing policy. And had Plaintiff merely filled out TLG's survey, it would have received a full two letter grades higher on TLG's score. *Expert Report of Professor Sean Nicholson* (Aug. 7, 2025), Ex. 6.

Based on the foregoing, and as more fully set forth in the Complaint, TLG engages in deceptive trade practices by, among other things, deceiving consumers about its grading methods by implying that Plaintiff has failed on certain measures that, in truth, TLG has no data or other basis to evaluate; deceiving consumers by telling them the Hospital Safety Grade reflects how well a hospital does on safety, not whether they complete the Hospital Survey; deceiving consumers when it represents that it does not grade hospitals if it lacks sufficient data, when, in truth, it does grade hospitals by "imputing" or making up a grade for the Deceptive Score Categories; hiding the truth about its "imputation model" from consumers by burying it in fine print on a separate website; punishing non-participating hospitals by "imputing" scores, which artificially deflate a hospital's Safety Grade; and favoring participating hospitals. Additional factual bases for the Plaintiff's claims are presented in the Complaint.

Interrogatory No. 4: Describe the scoring or grading methodology You believe Leapfrog should have used to assess Your hospital's patient safety performance and explain why that method would yield a different result.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff's provision of an alternative scoring or grading methodology has nothing to do with the claims and defenses in this case related to TLG's

decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it calls for speculation.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objections, Plaintiff responds that TLG should use a scoring system that is not unfair or deceptive. By way of example only, TLG could decline to grade hospitals that do not participate in TLG's survey, because their decision not to participate means TLG is missing seven process measures that rely on voluntary submission of hospital data. This would yield a different result, because the hospitals would not receive a grade at all. TLG's methodology certainly should not affirmatively assign an arbitrary low score to a particular metric just because a hospital does not provide data for that metric.

Interrogatory No. 5: State whether You submitted any data, corrections, or appeals to Leapfrog regarding the Safety Grade Your hospital received, and for each such submission, identify the date of the submission, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the submission, and the content of the submission.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Whether or not Plaintiff submitted "any data, corrections, or appeals to Leapfrog regarding the Safety Grade" Plaintiff hospital received has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Answer: Subject to the foregoing objections, Plaintiff engaged in correspondence prior to the commencement of this case demanding that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, but at every turn TLG refused.

Amended Answer: Subject to the foregoing objections, Plaintiff did not submit any data, corrections or appeals to Leapfrog regarding the Safety Grades it has received.

Interrogatory No. 6: State whether You provided any comment or input in any form during Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade methodology that was proposed for the calculation of Hospital Safety Grades (including but not limited to for the Fall 2024 methodology update). If yes, please identify the date of the comment, the medium of the submission (i.e. telephone, video conference, email, letter, etc.), who was involved in the comment and the content of the comment. If no, please state the reason why You chose not to comment.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Whether or not Plaintiff submitted "any comment or input" in response to TLG's request for public comments has nothing to do with claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff further objects to this Interrogatory to the extent it seeks information that is already in TLG's possession, custody and control, or equally available to TLG.

Subject to the foregoing objections, Plaintiff did not provide comments in response to Leapfrog's requests for public comments for planned updates to the Leapfrog Hospital Safety Grade scoring system because Plaintiff generally does not respond to requests for public comment from private entities like TLG.

Interrogatory No. 7: Describe all actions Your hospital took in response to (or in deciding not to respond to) its Safety Grade or the Hospital Survey, including internal meetings, media statements, or public relations efforts. In so answering, state the date of the action, the individuals involved in the action and the content of the action.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “all actions” Plaintiffs may have taken in response to TLG’s Safety Grades. *See Megdal Assocs., LLC v. La-Z-Boy, Inc.*, No. 14-81476-CIV, 2016 WL 4503337, at *6 (S.D. Fla. Feb. 1, 2016) (finding interrogatories asking for “‘all’ facts or witnesses that support an opposing party’s case” to be “unduly broad”) (citing 8B Wright, Miller, & Kane, Federal Practice and Procedure: Civil 3d § 2167 (2015)). Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Answer: Subject to the foregoing objections, Plaintiff devoted substantial time and resources that could have otherwise been spent continuing to improve patient care to respond to the significant harm and disruption caused by TLG’s deceptive and unfair Safety Grade. Plaintiff’s response included meeting internally with Plaintiff’s leadership team, medical executive committee, and governing board, corresponding with TLG to demand that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, and devoting substantial time and resources to facilitate the preparation and prosecution of this Action.

Amended Answer: Subject to the foregoing objections, Plaintiff devoted substantial time and resources that could have otherwise been spent continuing to improve patient care to respond to the significant harm and disruption caused by TLG’s deceptive and unfair Safety Grades. Plaintiff’s response included meeting internally with Plaintiff’s leadership team, medical executive

committee, and governing board, corresponding through Plaintiff's corporate parent with TLG to demand that TLG reform its deceptive practices and cease and desist reporting deceptive and unfair Safety Grades, and devoting substantial time and resources to facilitate the preparation and prosecution of this Action. Plaintiff has also held many phone calls and meetings with physicians and other stakeholders about the TLG grades, explaining how the grades were deceptive and did not accurately reflect the hospital quality and patient safety at Plaintiff.

Interrogatory No. 8: Identify any and all persons, whether internal or external (e.g., patients, vendors, affiliates, parents, agents, partners, media) with whom You communicated in any way with respect to the Safety Grade or the Hospital Survey. In so answering, state the date of the communication, the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.) and the content of the communication.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of "any and all persons, whether internal or external." Plaintiff will disclose the categories of individuals with whom Plaintiff communicated about the Safety Grade or Hospital Survey during the Relevant Time Period. Plaintiff also objects to this Interrogatory to the extent it seeks protected health information that Health Insurance Portability and Accountability Act ("HIPAA"), among other statutes and regulations, bars Plaintiff from disclosing. Plaintiff further objects to this Interrogatory to the extent it seeks information that is subject to a claim of privilege or otherwise protected from disclosure, including seeking information protected by the attorney-client privilege, work-product doctrine, or other immunity.

Answer: Subject to the foregoing objections, Plaintiff communicated with the following categories of people regarding the Safety Grade or the Hospital Survey: Plaintiff's governing board, its medical executive committee, department directors, and physicians and nurses when

asked about the Safety Grade or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grade for Plaintiff's hospital. Most of these communications occurred during regularly scheduled meetings, during which attendees were told about TLG's release of the deceptive and unfair Safety Grade, that Plaintiff does not participate in the Hospital Survey because it is unreliable and not an accurate reflection of hospital quality and safety or patient outcomes, and that the Safety Grade, which was not based on any information provided by Plaintiff, was misleading. The Palm Beach Health Network also issued a press release and since then, has engaged in various social networking and other marketing campaigns to counteract TLG's deceptive scores on behalf of Plaintiff and other affected members of the network.

Amended Answer: Subject to the foregoing objections, Plaintiff communicated with the following categories of people regarding the Safety Grade or the Hospital Survey: Plaintiff's governing board, its medical executive committee, department directors, physicians and nurses, and patients when asked about the Safety Grades or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grades for Plaintiff's hospital. Most of these communications occurred during regularly scheduled meetings, during which attendees were told about TLG's release of the deceptive and unfair Safety Grade, that Plaintiff does not participate in the Hospital Survey because it is unreliable and not an accurate reflection of hospital quality and safety or patient outcomes, and that the Safety Grade, which was not based on any information provided by Plaintiff, was misleading. The Palm Beach Health Network also issued a press release and has engaged in marketing efforts, including through social media, to counteract TLG's deceptive scores on behalf of Plaintiff and other affected members of

the network. Plaintiff also engaged in email discussions about TLG's misleading grades, either as sender or recipient, which TLG has through Plaintiff's production of documents.

Interrogatory No. 9: Describe all instances in which a third party declined to contract with, refer patients to, or work with Your hospital, where Leapfrog's grade was cited or discussed. In so identifying list the name of the individuals involved in the communication, the medium of the communication (i.e. telephone, video conference, email, letter, etc.), the date of the communication and the content of the communication.

Answer: Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it requires Plaintiff to "[d]escribe all instances" in which a third party took an action in response to TLG's deceptive grade.

Subject to the foregoing objection, Plaintiff is not aware of any responsive instances.

Interrogatory No. 10: Describe with specificity the basis for each and every category of damage You claim You incurred as a result of the Leapfrog Safety Grade. In so identifying, list each category of damages and the dollar value of each category of damage You claim.

Plaintiff objects to this Interrogatory to the extent it seeks information that is the subject of expert testimony.

Answer: Plaintiff will submit expert reports on August 7, 2025, per the Pretrial Scheduling Order.

Amended Answer: Plaintiff has served the expert report of Thomas Chakurda, which addresses the issue of reputational harm and harm to Plaintiff's goodwill. Plaintiff further objects to this Interrogatory as overbroad and unduly burdensome to the extent it seeks "each and every" category of claimed damages.

Subject to the foregoing objections and as agreed during the parties' September 3, 2025 meet and confer, Plaintiff will limit its response to the live non-monetary claims, including

injunctive and declaratory relief, to remedy harm to Plaintiff's reputation and goodwill. Plaintiff's reputation and goodwill has been damaged by TLG's false and misleading methodology and resulting Safety Grades. Plaintiff's claim for reputational harm is based on, among other things, concerns raised by patients, doctors, staff, and community members, as well as false and misleading statements based on TLG's false and misleading methodology and Safety Grades made in newspapers, viral social-media videos, television programs, and blogs.

By way of example, our Medical Executive Committee has received direct inquiries from patients regarding their concerns with TLG's grades and related public reports. An emergency-department patient, who needed surgery, said that he was leaving because of the Leapfrog grade. The harm caused by TLG's false and misleading Safety Grade is ongoing.

Interrogatory No. 11: Identify all adverse patient events which occurred at Your hospital, including any citations received from regulatory agencies, accrediting agencies, and third party payors such as The Joint Commission, CMS, state health departments, etc. during the period covered by each Leapfrog Safety Grade publication of which You complain (i.e., Fall 2024, Fall 2025, etc.), as well as any complaints received from patients regarding the same.

Plaintiff objects to this Interrogatory because it is overly broad, unduly burdensome, seeks discovery of information that is irrelevant to the claims and defenses in this Action, seeks information that is beyond the scope of Leapfrog's Hospital Survey, and is not reasonably calculated to lead to the discovery of admissible evidence. TLG does not include "all adverse patient events," "citations received from" agencies or payors, or "complaints received from patients" in TLG's determination of its Hospital Safety Grades or request such information in the Hospital Survey, so any such information is irrelevant to whether TLG's actions constitute unfair or deceptive trade practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff also objects to this Interrogatory to the extent it seeks protected health information that HIPAA, among other statutes and regulations, bars Plaintiff from disclosing.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Defendant has agreed to withdraw this Interrogatory.

Interrogatory No. 12: Describe in detail how Your hospital compares nationally on on [sic] any other ranking of patient safety performance, including but not limited to Vizient, Inc., Premier, Inc., HealthTrust Purchasing Group, The Joint Commission, HealthGrades, US News, Newsweek, Statista, Definitive Healthcare, or any other quality benchmarking entity including benchmarking on patient safety including on adverse events and on healthcare-acquired infections.

Plaintiff objects to this Interrogatory's request that Plaintiff "[d]escribe in detail how Your hospital compares nationally" based on undisclosed "benchmarking" as vague and confusing. To the extent this Interrogatory seeks the top-line rankings of the identified organizations, Plaintiff objects to this Interrogatory because such information is publicly and equally available to TLG. To the extent this Interrogatory asks Plaintiff to compare itself to the named and unnamed entities, that request is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Other organizations' rankings have nothing to do with the claims and defenses in this case related to the Deceptive Score Categories or TLG's decision to use deceptive business practices.

Answer: Subject to the foregoing objections, Plaintiff has received numerous awards and accolades, including many that are directly relevant to patient care for children and women that we serve. For example, Plaintiff is the only Level III NICU facility in southern Palm Beach County. Level III NICUs provide lifesaving care for babies born before 32 weeks' gestation or babies with specific medical conditions that require surgery or specialized pediatric care. The American College of Radiology accredited Plaintiff for Imaging Modalities including Nuclear

Medicine, Ultrasound, MRI, CT—which provides us the ability to care for the Level III NICU children and at-risk pregnancy mothers that we treat and ensures we are using best practices. Relatedly, Plaintiff has an accredited education program in radiology through Joint Review Committee on Education and Radiologic Technology, which is the only agency recognized by the United States Department of Education and the Council for Higher Education Accreditation for the accreditation of traditional and distance delivery educational programs in radiography, radiation therapy, magnetic resonance, and medical dosimetry. This program provides our clinical staff with educational opportunities to ensure our patients receive quality care.

Plaintiff is accredited by the Joint Commission, the nation’s largest hospital accreditor that evaluates hospitals’ quality performance standards through an objective evaluation process. Plaintiff has also been accredited by Joint Commission for specialization certifications for Joint-Replacement – Hip, Joint Replacement – Shoulder, and Joint Replacement – Knee—a certification designed for hospitals providing the critical elements to achieve long-term success in improving critical medical outcomes—which signifies our services have delivered evidence-based proof of clinical quality sought by patients and payers alike. The entities that award and assign these accreditations visit the healthcare facility and perform regular periodic in-person reviews, audits, surveys, and assessments of the facility.

Plaintiff has also received numerous awards that exemplify its quality such as Get with the Guidelines Silver Plus Stroke Recognition Award and Diabetes Honor Roll. In addition, as a facility that primarily treats mothers and children, it is important to us that we implement the American Academy of Pediatrics best practices and have been recognized for doing so by receiving the Silver designation from the Cribs for Kids’ National Safe Sleep Hospital Certification program, which signifies our facility’s commitment to infant safe sleep to reduce the risk of Sudden

Unexpected Infant Death, Accidental Suffocation and Strangulation in Bed, SIDS, and unsafe sleep injuries.

Healthgrades has awarded Plaintiff numerous Healthgrades accolades. To assess and evaluate hospitals, Healthgrades relies on data from Medicare medical claims records and states' data on Medicare and commercially insured patient outcomes to determine patients' actual clinical outcomes when visiting a given hospital. Plaintiff also received several awards from Healthgrades for various specialties, including:

a. Critical Care

- i. Five-Star Recipient for Treatment of Sepsis for four years in a row (2022-2025)

b. Gastrointestinal

- i. Recipient of the Healthgrades Gastrointestinal Care Excellence Award (2022-2025)
- ii. Recipient of the Healthgrades Gastrointestinal Surgery Excellence Award (2025)
- iii. Top 10% in the Nation for overall Gastrointestinal Services (2025)
- iv. Top 10% in the Nation for Gastrointestinal Surgery (2025)
- v. Five-Star Recipient for Colorectal Surgeries for three years in a row (2023-2025)
- vi. Five-Star Recipient for Treatment of Bowel Obstruction (2025)

c. Labor and Delivery

- i. Five-Star Recipient for C-Section Delivery for 11 years in a row (2015-2025)

- ii. Five-Star Recipient for Vaginal Delivery for 11 years in a row (2015-2025)

d. Pulmonary Care

- i. Five-Star Recipient for Treatment of Respiratory Failure for three years in a row (2023-2025)

In addition, Plaintiff will produce and identify documents reflecting some of Plaintiff's rankings from other organizations.

Amended Answer: Subject to the foregoing objections, Plaintiff has received numerous awards and accolades. For example, the American College of Radiology accredited Plaintiff for Imaging Modalities including Nuclear Medicine, Ultrasound, MRI, and CT. Relatedly, Plaintiff has an accredited education program in radiology through Joint Review Committee on Education and Radiologic Technology.

Plaintiff is accredited by the Joint Commission for specialization certifications for Joint-Replacement – Hip, Joint Replacement – Shoulder, and Joint Replacement – Knee.

Plaintiff has also received Get with the Guidelines Silver Plus Stroke Recognition Award and Diabetes Honor Roll. In addition, Plaintiff has received the Silver designation from the Cribs for Kids' National Safe Sleep Hospital Certification program.

Healthgrades has awarded Plaintiff numerous Healthgrades accolades, including:

a. Critical Care

- i. Five-Star Recipient for Treatment of Sepsis for four years in a row (2022-2025)

b. Gastrointestinal

- i. Recipient of the Healthgrades Gastrointestinal Care Excellence Award (2022-2025)
- ii. Recipient of the Healthgrades Gastrointestinal Surgery Excellence Award (2025)
- iii. Top 10% in the Nation for overall Gastrointestinal Services (2025)
- iv. Top 10% in the Nation for Gastrointestinal Surgery (2025)
- v. Five-Star Recipient for Colorectal Surgeries for three years in a row (2023-2025)
- vi. Five-Star Recipient for Treatment of Bowel Obstruction (2025)

c. Labor and Delivery

- i. Five-Star Recipient for C-Section Delivery for 11 years in a row (2015-2025)
- ii. Five-Star Recipient for Vaginal Delivery for 11 years in a row (2015-2025)

d. Pulmonary Care

- i. Five-Star Recipient for Treatment of Respiratory Failure for three years in a row (2023-2025)

In addition, Plaintiff will produce and identify documents reflecting some of Plaintiff's rankings from other organizations.

Also, Plaintiff does not participate in Vizient and has not done so during the Relevant Time Period.

Interrogatory No. 13: Describe any steps taken by Your hospital to improve any and all of the patient safety measures considered by Leapfrog's Hospital Safety Grade (as set forth on Leapfrog's

published scoring methodology documents; see ECF No. 21-3 at 6-10; ECF No. 21-43 at 6-9), before and after each Safety Grade publication of which You complain.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks the identity of Plaintiff's improvements to "any and all" patient safety measures considered by Leapfrog's Hospital Safety Grade. Plaintiff further objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks information on metrics other than TLG's Deceptive Score Categories and to the extent it seeks information that is beyond the scope of Leapfrog's Hospital Survey.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objection, Plaintiff is committed to continual improvement of patient safety measures, motivated by our commitment to ensuring the best possible patient safety—not chasing the best possible Leapfrog grade. To achieve this core objective, Plaintiff devotes significant time and resources to improving its delivery of the highest possible quality of care for those in the community it serves, including efforts to improve its performance in areas related to the four metrics Plaintiff has chosen to impute in its survey.

Plaintiff tracks three of these metrics through its patient safety plan or as part of its quality improvement patient safety committee. For example, Plaintiff does random hand washing audits every month on every unit and addresses any negative trends. Plaintiff already has 24/7 ICU coverage for its intensivist unit and has had that coverage for several years, so it does not need to track this metric.

Interrogatory No. 14: State whether You are aware of specific patients who have relied on the Leapfrog Safety Grade in declining to receive healthcare services at Your hospital. In so answering, identify the individual patient that declined to receive services, the date of such declination, the type of service the patient declined to receive, the medium for the communication from the patient (i.e. telephone, video conference, email, letter, etc.), the content of the communication, and the reason given for the stated decision.

Plaintiff objects to this Interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to a Qualified Protective Order entered by this Court.

Answer: Subject to the foregoing objection, Plaintiff has received reports that patients considered or decided not to use Plaintiff's facility because of TLG's misleading grades.

Amended Answer: Subject to the foregoing objection, since the release of TLG's false and misleading grades, Plaintiff has received numerous reports from doctors that patients considered or decided not to use Plaintiff's facility due to concerns related to TLG's misleading grades.

Interrogatory No. 15: Describe any effort Your hospital has made to influence public perception of Your hospital's performance on patient safety following the publication of the Leapfrog Safety Grade.

Plaintiff objects to this Interrogatory as vague and ambiguous because it does not specify which Leapfrog Safety Grade is at issue. Plaintiff will construe this Interrogatory to reference TLG's deceptive Safety Grades beginning in Fall 2024. Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks "any effort" Plaintiff "has made to influence public perception" after the release of TLG's deceptive and unfair Safety Grades because there have been many such "efforts" and those

“efforts” are ongoing given the significant harm caused by TLG’s deceptive and unfair business practices.

Answer: Subject to the foregoing objections, Plaintiff continues to influence public perception by, among other things, delivering the highest quality care to the community it serves, which, as discussed in response to Interrogatory 12, has led to numerous awards, accreditations, and accolades. In addition, several public statements disputing the misleading nature of the Safety Grade have been made on Plaintiff’s behalf.

Supplemental Answer: In addition to the above, members of hospital leadership have communicated with patients, doctors, or community members on a regular basis to dispel the misleading nature of the Leapfrog Safety Grades. For instance, Plaintiff communicated its governing board, its medical executive committee, department directors, physicians and nurses, and patients when asked about the Safety Grades or Hospital Survey. These communications occurred in and after Fall 2024, after TLG released its deceptive and unfair Safety Grades for Plaintiff’s hospital. The Palm Beach Health Network also issued a press release and has engaged in marketing efforts, including through social media, to counteract TLG’s deceptive scores on behalf of Plaintiff and other affected members of the network. Plaintiff also engaged in email discussions about TLG’s misleading grades, either as sender or recipient, which TLG has through Plaintiff’s production of documents.

Interrogatory No. 16: Describe the due diligence Your hospital undertakes to ensure the accuracy of its own publicly reported safety data (including but not limited to data submitted to CMS, the CDC, and third party organizations).

Plaintiff objects to this Interrogatory as vague and ambiguous due to its use of the undefined term “due diligence.” Plaintiff further objects to this Interrogatory because it seeks

discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Any “due diligence” Plaintiff performs when reporting to *third parties* has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices, especially when TLG does nothing to ensure the accuracy of information that hospitals that participate in its survey self-report.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objections, Plaintiff makes reasonable efforts to ensure the accuracy of the data it reports to third-party organizations. For instance, Plaintiff employs data abstractors, quality coordinators and a Quality Director, who are all responsible for abstracting, validating, and submitting safety data.

Interrogatory No. 17: Describe in detail how You communicate to the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System the outcome of any and all healthcare safety ratings, evaluative publications, studies, or performance analyses that Your Hospital receives.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff’s communication, if any, with the shareholders, board members, collective bargaining representatives and investors of Tenet Healthcare System, all non-parties to this litigation, has nothing to do with the claims and defenses in this case related to TLG’s decision to use deceptive business practices.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objection, Plaintiff communicates with Tenet stakeholders, including employees who work to support the Palm Beach Health Network, on a range of matters, including issues related to patient safety and outcomes and in particular related to TLG and the Safety Grades by email and oral communication. Those communications included discussions about the reasons for particular grades, the method used to calculate Safety Grades, the value of Safety Grades, and responses to the Safety Grades. In addition, identified below are documents Plaintiff produced evidencing communications between the Plaintiff Hospitals and Tenet related to TLG, the Leapfrog survey, and Safety Grades.

Start Page	End Page
PBHN000005541	PBHN000005542
PBHN000002082	PBHN000002085
PBHN000005475	PBHN000005477
PBHN000006746	PBHN000006752
PBHN000006509	PBHN000006513
PBHN000006397	PBHN000006401
PBHN000002090	PBHN000002094
PBHN000002071	PBHN000002071

PBHN000002103	PBHN000002103
PBHN000004562	PBHN000004563
PBHN000004564	PBHN000004564
PBHN000004574	PBHN000004581
PBHN000005509	PBHN000005511
PBHN000005518	PBHN000005521
PBHN000005526	PBHN000005529
PBHN000006414	PBHN000006419
PBHN000006465	PBHN000006466

Discovery is ongoing, and Plaintiff reserves the right to amend, modify or supplement the response to this Interrogatory.

Interrogatory No. 18: State whether the compensation of Your Chief Executive Officer or any other executive-level leadership officers is tied to or related in any way to Your hospital's performance on patient safety, union worker contracts or Your hospital's ratings by third party ratings organizations' ratings publications (including but not limited to the Leapfrog Hospital Safety Grade).

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action. Plaintiff's method of compensating its Chief Executive Officer and other executive-level leadership **has nothing to do with the** claims and defenses in this case related to TLG's decision to use deceptive business practices.

Answer: TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objection, Plaintiff's performance on patient safety, union worker contracts, or ratings by third party ratings organizations' ratings publications is related in some way to the compensation of Plaintiff's Chief Executive Officer or other executive-level leadership officer(s).

Interrogatory No. 19: Identify all hospitals, medical centers, or healthcare systems that you consider to be your direct competitors within the relevant geographic market during the time period covered by the Complaint and describe in detail the criteria you use to determine whether another hospital or healthcare provider is a competitor.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. The identity of Plaintiff's competitors and "the criteria" used to determine whether a hospital or provide is a competitor has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices. Plaintiff also objects to this Interrogatory to the extent it seeks confidential, proprietary information, and

commercially sensitive information related to Plaintiff's scoring system and "criteria" used to determine whether a hospital or provide is a competitor.

Answer: Subject to the foregoing objections and on condition that this response is considered "Confidential" under the forthcoming agreed confidentiality order, Baptist Health South Florida, Bethesda Hospital East, Bethesda Hospital West, Boca Raton Regional Hospital, Broward Health Hospital in Coral Springs, and HCA Florida Northwest Hospital are Plaintiff's competitors. Plaintiff considers these hospitals competitors because of their proximity to Plaintiff, their competing services lines, and that patients within Plaintiff's service area go to these hospitals for medical care.

Interrogatory No. 20: State and describe the results of any market analysis, competitive analysis, or consumer perception surveys you have conducted or commissioned regarding your competitors from 2020 to present, and identify the individuals or entities that prepared or participated in such analyses.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is irrelevant to the claims and defenses in this Action and is not is not proportional to the needs of this Action. The results of any market analysis, competitive analysis, or consumer perception surveys and the identity of those who prepared or participated in such analyses has nothing to do with the claims and defenses in this case related to TLG's decision to use deceptive business practices.

Answer: Plaintiff declines to respond to this Interrogatory.

Amended Answer: Plaintiff further objects to this Interrogatory to the extent it requests information from outside of the relevant time period of January 1, 2023, to present. Plaintiff also

objects to this Interrogatory as unduly burdensome to the extent it asks Plaintiff to “state and describe” various market analysis.

As agreed during the parties’ meet and confer on September 3, 2025, Plaintiff will produce documents showing the results of studies or surveys Plaintiff has conducted or commissioned related to internal market analysis, competitive analysis, or consumer perception. Plaintiff will identify the documents responsive to this Interrogatory by Bates number in Plaintiffs’ production cover letter.

Interrogatory No. 21: Identify with specificity any comments or concerns raised by any third party payor, bank or lender, or investor related to Your hospital’s reputation and/or public perception on issues in any way involving patient safety or satisfaction.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not proportional to the needs of this case to the extent it seeks “comments and concerns” from third parties related generally to Plaintiff’s reputation that has nothing to do with the specific and significant reputational harm caused by TLG’s misleading grades.

Answer: Subject to the foregoing objections, Plaintiff will produce and identify documents related to the significant reputational harm caused by TLG’s deceptive and unfair Safety Grades that provide sufficient detail to respond to this Interrogatory.

Amended Answer: Subject to the foregoing objections, Plaintiff is unaware of any documents related to this Interrogatory.

Interrogatory No. 22: Identify and describe any complaints, concerns, or comments from patients, community members, or referring physicians that relate to the hospital’s reputation or comparisons to other hospitals in the region.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not proportional to the needs of this Action to the extent it seeks “comments and concerns” from patients, community members, or referring physicians that have nothing to do with the significant reputational harm caused by TLG’s misleading grades. Plaintiff also objects to this interrogatory as seeking protected health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to the agreed protective order entered by this Court.

Answer: Subject to the foregoing objections, Plaintiff has received reports that patients and physicians considered or decided not to use Plaintiff’s facility because of TLG’s misleading grades.

Amended Answer: Subject to the foregoing objections, Plaintiff has received reports that patients and physicians considered or decided not to use Plaintiff’s facility because of TLG’s misleading grades. In addition, concerns have been raised by patients, doctors, staff, and community members, and Plaintiff is aware of false and misleading statements based on TLG’s false and misleading methodology and Safety Grades made in newspapers, viral social-media videos, television programs, and blogs.

Our Medical Executive Committee has received direct inquiries from patients regarding their concerns with TLG’s grades and related public reports. An emergency-department patient, who needed surgery, said that he was leaving because of the Leapfrog grade. The harm caused by TLG’s false and misleading Safety Grade is ongoing.

In addition, the following produced documents evidence such harm.

Start Page	End Page
PBHN000006771	PBHN000006773
PBHN000002082	PBHN000002085
PBHN000002066	PBHN000002070
PBHN000002615	PBHN000002617
PBHN000006397	PBHN000006401
PBHN000002090	PBHN000002094
PBHN000002103	PBHN000002103

PBHN000004484	PBHN000004484
PBHN000004564	PBHN000004564
PBHN000004574	PBHN000004580
PBHN000004557	PBHN000004557
PBHN000008718	PBHN000008718
PBHN000006461	PBHN000006462
PBHN000008914	PBHN000008914
PBHN000008915	PBHN000008915

Discovery is ongoing, and Plaintiff reserves the right to amend, modify or supplement the response to this Interrogatory.

Interrogatory No. 23: List with specific detail each and every concern, complaint or comment made by any union, collective bargaining unit or employee association in any way related to patient safety at Your hospital.

Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is overly broad, unduly burdensome, and not proportional to the needs of this Action to the extent it seeks “each and every concern, complaint or comment ” from third parties that have nothing to do with the significant reputational harm caused by TLG’s misleading grades. Plaintiff also objects to this Interrogatory to the extent it seeks health information that is protected from disclosure by HIPAA, among other statutes and regulations. Plaintiff will only produce this information as needed and subject to the agreed protective order entered by this Court.

Answer: Subject to the foregoing objections, Plaintiff is unaware of any concern, complaint or comment regarding TLG deceptive scores made by the union at Plaintiff’s hospital.

Amended Answer: Subject to the foregoing objections, Plaintiff is unaware of any concern, complaint, or comment regarding TLG's deceptive scores or regarding patient safety made by the union at Plaintiff's hospital.

Interrogatory No. 24: Identify any and all criticism You have received since 2020 from Tenet Healthcare Corporation and/or from any individual executive of Tenet Healthcare Corporation regarding Your hospital's performance in any way.

Answer: Plaintiff objects to this Interrogatory because it seeks discovery of information that is overly broad, unduly burdensome and irrelevant to the claims and defenses in this Action and is not reasonably calculated to lead to the discovery of admissible evidence. Any so-called "criticism" has nothing to do with the claims and defenses related to TLG's decision to use deceptive business practices. TLG has, therefore, only propounded this Interrogatory for purposes of harassment. Plaintiff declines to respond to this Interrogatory.

Amended Answer: As discussed during the parties' meet and confer on September 3, 2025, TLG agreed to narrow this Interrogatory to concern only "criticism...regarding Your hospital's patient safety." After a reasonable and diligent search, Plaintiff is unaware of having received "criticism" from Tenet Health Corporation regarding patient safety. Plaintiff is always working to improve its performance, quality, and safety in a constructive way and engages with Tenet Health Corporation as needed to ensure Plaintiff provides the best patient care possible.

Dated: September 8, 2025

Respectfully submitted,

By: /s/ Lee R. Crain

MARCUS NEIMAN RASHBAUM & PINEIRO
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CERTIFICATE OF SERVICE

This is to certify that true and correct copies of Plaintiff's Amended and Supplemented Responses and Objections to Defendant The Leapfrog Group's First Sets of Interrogatories to Plaintiff have been served on counsel for The Leapfrog Group by electronic transmission.

/s/ Lee R. Crain
Lee R. Crain

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.

**AFFIDAVIT OF JERAD HANLON IN SUPPORT OF
PLAINTIFF WEST BOCA MEDICAL CENTER, INC.'S
AMENDED AND SUPPLEMENTED RESPONSES AND OBJECTIONS TO
DEFENDANT THE LEAPFROG GROUP'S FIRST SET OF
INTERROGATORIES TO WEST BOCA MEDICAL CENTER**

I, Jerad Hanlon, declare as follows:

1. I am over 21 years of age and competent to give this testimony.
2. I am the Chief Executive Officer of West Boca Medical Center, Inc. ("Plaintiff"). I am the corporate representative of Plaintiff for the purpose of answering Defendant The Leapfrog Group's First Set of Interrogatories to West Boca Medical Center. I have read the foregoing interrogatories and the answers to those interrogatories, which are true according to the best of my knowledge, information, and belief.
3. I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 8, 2025.



Jerad Hanlon