UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 25-CV-80526-MIDDLEBROOKS

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

Plaintiffs,

v.

THE LEAPFROG GROUP,

Defendant.
_____/

ORDER DENYING DEFENDANT'S DAUBERT MOTION

THIS CAUSE comes before the Court upon Defendant, The Leapfrog Group's Daubert Motion to Exclude Expert Testimony, filed on November 12, 2025. (DE 97). Plaintiffs filed their Response on November 26, 2025. (DE 114). Defendant filed their Reply on December 3, 2025. (DE 126). For the following reasons, the Motion is denied.

The underlying factual background and description of the claim against Defendant are well summarized elsewhere in the record and need not be repeated here. Defendant moves to exclude the opinions and testimony of three of Plaintiff's experts: Thomas Chakurda, Jonah Berger, Ph.D., and Sean Nicholson, Ph.D. Mr. Chakurda carries over 40 yeas of experience in marketing and public relations related to the healthcare industry. (DE 97 at 2). He will render opinions regarding a hospital's brand being critical to its reputation and economic success and discuss how hospitals who receive low grades from the Defendant experience reputational harm to their brand. (*Id.*). Dr. Berger is a Marketing professor at the Wharton School at the University of Pennsylvania, who will testify that the "D" and "F" grades dealt by the Defendant likely impact consumers, and that

consumers are unlikely to understand that Defendant assigns the minimum possible score on imputed measures and the impact of the imputation methodology on the Hospital Safety Grades. (*Id*. at 3). Dr. Nicholson, an economics professor at Cornell University opines that the hospital grades are far from reliable or apparent, and the methodology departs from guiding principles for how hospital quality or safety should be measured. I note that Defendant purports to raise Daubert challenges to these experts, but, in reality, many of the arguments appear to boil down more to objections on relevance and/or sufficiency of the evidence grounds.

Defendant suggests that Mr. Chakurda's testimony does not address any of the material issues of this case. I disagree. A central issue in this case involves whether the Plaintiff's constitute an aggrieved party under the terms of the operative statute, thereby potentially availing them of its remedies. The upshot of Defendant's argument is that this testimony can be proffered without the label of an expert and note that, of course, changes in hospital perception is "generally the purpose of a rating system." (DE 97 at 7). Yet, this argument is misguided for two reasons. First, given the context of a bench trial, the apparent risk of improperly labeling a witness as an "expert" is significantly diminished. Second, such a high-level critique of the witness's resulting opinions does not meaningfully engage with the witnesses' extensive experience that informs these opinions. For example, some of the areas of considerations that inform the discussion here, "brand-level messaging interacts with patient choice, physician referral patterns, and payer reimbursement practices" are not lay assumptions. (DE 114 at 11). Trial will tell how this expert adds additional perspectives to what the Defendant believes is obvious.

For much of the same reason, Dr. Berger's testimony is also useful. Dr. Berger will opine on the low-grades impact on consumers. Given the core role of consumer harm, which in my view

is the heart of this case, such testimony is undoubtedly important. And Dr. Berger is well equipped to offer perspective on the nuances of consumer harm given his extensive experience in consumer behavior, consumer psychology, and digital marketing—all of which live at the heart of nuanced inquiry. Defendant's gripes with these experts sound more in a sufficiency-of-the-evidence critique. These are issues best dealt with at trial.

Dr. Nicholson's testimony is equally useful to this case. He took the stand today in anticipation that this order denying Defendant's motion was forthcoming. Dr. Nicholson's testimony explored key areas including whether Defendant's methodology significantly deviated from peer-reviewed principles for reliably measuring hospital quality and whether it does generates Safety Grades that reliably predict hospital quality and safety. (DE 114 at 7). These are, of course, relevant to considerations of the unfair or deceptive nature of the acts. And his background, which centers on health economics, certainly justifies him to engage in these inquiries. (*Id.*). Moreover, Defendant's complaint that the data utilized in his studies do not constitute the actual information about Plaintiffs, while salient, attack the credibility and weight of his findings, not his role as an expert on the issues he testified about and why he was personally qualified to do so.

Given the respective experience of the proffered experts, I find that the proposed testimony is well within their expertise. To the extent that the Defendant disputes the expert's qualifications or the significance of their opinions, Defendant may cross examine these experts. Ultimately, the precise necessity for an expert witness to render the type of testimony or opinion that the Defendant's take issue with is not something I can easily discern at the present juncture.

Accordingly, it is **ORDERED AND ADJUDGED** that the Defendant's Motion in Limine (DE 97) is **DENIED**.

SIGNED in Chambers at West Palm Beach, Florida, this 20th day of January 2026.

Donald M. Middlebrooks
United States District Judge

cc. Counsel of Record