

**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 PLAINTIFFS' DAUBERT MOTION

THIS CAUSE comes before the Court upon Plaintiffs' Good Samaritan Medical Center, Inc., Delray Medical Center, Inc., Palm Beach Gardens Community Hospital, Inc., St. Mary's Medical Center, Inc., and West Boca Medical Center, Inc., Motion to Exclude Leapfrog's Expert Witnesses, filed on November 10, 2025. (DE 96). Defendant filed their Response on November 24, 2025. (DE 111). Plaintiff filed their Reply on December 1, 2025. (DE 121). 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. Plaintiff moves to exclude the opinions and testimony of four of Defendant's experts: (1) Michael Vredenburgh; (2) Dr. Farrokh Farrokhi; (3) Mark Rule; and (4) Dr. Anthony Harris. I note that Plaintiffs purport 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.

I begin with Plaintiff's challenge to Mark Rule, who is partner and managing director at a global consulting firm with over 25 years of experience providing operational, financial, litigation,

and other types of consulting to clients in a diverse range of industries, including healthcare. (DE 111 at 2). Defendants proffer that Mr. Rule will testify as a rebuttal witness about whether Plaintiffs have reliably suffered economic harm and render opinions including that Plaintiffs' experts have not undertaken the requisite analyses to conclude that Plaintiffs did suffer such harm. (DE 111 at 2). As it pertains to his first, opinion, Plaintiffs argue that his testimony is irrelevant because it concerns damages calculations, when the Plaintiffs have abandoned their request for damages. This reading ignores the nuance of the legal dispute at issue. Mark Rule's testimony and role as a rebuttal witness centers on Defendant's challenge to Plaintiff's standing to bring this case as an aggrieved party because, as he is expected to testify, Plaintiffs did not suffer a concrete harm. (DE 111 at 3). The relevance of his testimony, therefore, relies entirely upon the applicable legal standard in this case—namely whether aggrievement requires concrete injury, and what the nature of the concrete injury must be. Because that is a core aspect of this trial, and although I have intimated what the law appears to require in my Order denying the cross motions for summary judgment, it would be premature to exclude Mr. Rule's testimony at this juncture. I also find Mr. Rule's remaining opinion involving the "re-grading" exercise to be entirely relevant. At this stage, the probative value of such testimony informs the inquiry of the harm alleged to have been suffered.

Plaintiffs also move to exclude Dr. Farrokh Farrokhi, a neurosurgeon's, opinion and testimony. Defendants proffer that Dr. Farrokhi will testify about how participation in externally reported quality metrics impacts the daily work and ultimate quality of care for patients at hospitals with a cultural emphasis on transparent quality improvement and render opinions including that these metrics inspire meaningful improvement in patient care. (DE 96-2 at 7, 14). Plaintiffs argue that his testimony consists of undisclosed, speculative, and anecdotal opinions and that he has no

training or experience in benchmarking, survey reliability, or survey design. Specifically, Plaintiffs suggest that “his views are based solely on personal observations from his own hospital.” (DE 96 at 13). Defendants, in turn, respond that Dr. Farrokhi maintains roles at the nexus of hospital quality and improvement initiatives. This includes being “part of the team that manages Key Performance Indicators (KPIs) that are reported to external and internal regulatory quality organizations... [founding] a robust research institute focused on quality improvement, patient safety, risk reduction, and appropriate care delivery. He was President of the Washington Association of Neurological Surgeons, and subsequently a member of the board of directors, and he has engaged in research and publications on patient safety.” (DE 111 at 17). As a matter of experience, I find Dr. Farrokhi to be qualified as an expert and that his unique experience will offer helpful testimony that can be sufficiently weighed at trial.

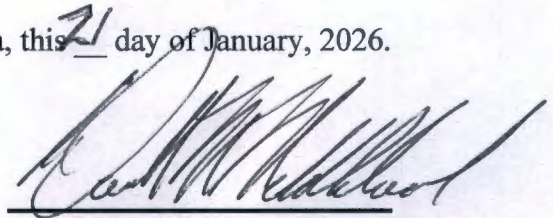
Plaintiffs’ challenge to Dr. Anthony Harris’s testimony is similarly unavailing. Defendants proffer that Dr. Harris will testify about Leapfrog’s consultation with experts, the impact of non-response bias, and the Plaintiff hospitals’ performance and render opinions including that Leapfrog did consult with experts, that biases should be accounted for in a methodology, that the Plaintiff hospitals are underperforming, and that recalculations of their grades are incorrectly measured. (DE 96-3). Plaintiffs’ main argument is that Dr. Harris’s testimony is grounded on false premises, namely that “Leapfrog’s Expert Panel reviewed and approved the challenged methodology is demonstrably incorrect.” (DE 96 at 15). Defendant contends that the basis for Plaintiffs’ argument is a matter of semantics, unsuitable to warrant exclusion at this juncture. (DE 111 at 11). I agree and find that Defendant’s challenge is better suited to a weight determination at trial.

Finally, I arrive at Plaintiffs’ challenge to Michael Vredenburg’s testimony. The central challenge to Mr. Vredenburg’s testimony is that he violated Rule 26(a)(2)’s expert-disclosure

requirements. (DE 121 at 11). Specifically, Plaintiffs contend that he violated the requirements by failing to identify all the “materials he had relied upon for his opinion.” (DE 96 at 19). Defendants respond by arguing that an expert need only disclose facts or data considered when forming the opinion and exhibits that will be used to summarize or support the opinion; and in any event, any such error was harmless. (DE 111 at 24). Defendant’s reading is incorrect. (“[The] disclosure obligation extends to any facts or data considered by the expert in forming the opinions to be expressed, not only those relied upon by the expert.” (quoting Fed. R. Civ. P. 26(a)(2)(B)). The plain language of the rule is clear and directly controverts the Defendant’s position. However, for purposes of a bench trial, I view the nature of Plaintiff’s challenge as better suited to a sufficiency of the evidence challenge. This expert can be properly cross-examined on this issue and the evidence he relied upon in developing his opinion.

Accordingly, it is **ORDERED AND ADJUDGED** that the Plaintiff’s Motion to Exclude Leapfrog’s Expert Witnesses (DE 96) is **DENIED**.

SIGNED in Chambers at West Palm Beach, Florida, this 21 day of January, 2026.



Donald M. Middlebrooks
United States District Judge

cc.

Counsel of Record