NOT FOR PUBLICATION

In the United States Court of Appeals
For the Eleventh Circuit

No. 22-13484
Non-Argument Calendar

LISA MATTHEWS,
an individual,
LORI MOODY,
as Healthcare Power of Attorney for Lisa Mathews,

Plaintiffs-Appellants,

versus

ASCENSION ST. VINCENTS CLAY COUNTY HOSPITAL,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 3:22-cv-00184-BJD-LLL

Before LUCK, LAGOA, and ANDERSON, Circuit Judges.

PER CURIAM:

The Appellee filed a petition for rehearing either by the panel or en banc, reiterating arguments presented by Appellee to the district court and in its appellate brief to us.[1] On reconsideration, we grant the petition for panel rehearing, withdraw our previous opinion issued on December 30, 2025, and substitute in its place the following opinion.

Lisa Matthews and Lori Moody (sometimes referred to as Plaintiffs or Appellants) appeal the district court's order dismissing their *pro se* complaint against Ascension St. Vincent's Clay County Hospital ("the Hospital") that alleged claims under the Emergency Medical Treatment and Active Labor Act ("EMTALA"), 42 C.F.R. § 489.24, and the analogous Florida Statutes § 395.1041. They also appeal its order denying their post-dismissal motions to alter or amend judgment under Fed. R. Civ. P. 59(e) and for leave to file an amended complaint under Fed. R. Civ. P. 15. First, they argue that the district court erred in dismissing their EMTALA claim for failure to state a claim because they sufficiently pled that the Hospital both failed to adequately screen Matthews and failed to stabilize her emergency medical condition before discharging her. Second, they argue that the district court erred in denying their Rule 59(e) and Rule 15 motions because it erred in dismissing their complaint and in concluding that they should not be given leave to amend

[1] Our order issued on March 5, 2026, denied rehearing en banc but alerted Appellants that the panel would address the petition for panel rehearing after considering Appellants' response to Appellee's petition for panel rehearing. Appellants' response has now been filed and considered by the panel.

their initial complaint due to undue delay and undue prejudice to the Hospital, and due to futility. Third, they argue that the district court erred in dismissing their Fla. Stat. § 395.1041 claim for failure to state a claim because they sufficiently pled that the Hospital improperly screened Matthews and did not treat her for malnutrition before discharging her despite detecting it.

We write only for the parties who are already familiar with the facts. Therefore, we include only so many of the facts as is appropriate to understand our opinion.

I. DISCUSSION

A. Motion to Dismiss

We review a district court's order granting a motion to dismiss for failure to state a claim *de novo*. *EEOC v. STME, LLC*, 938 F.3d 1305, 1313 (11th Cir. 2019).

Pro se pleadings are held to a less stringent standard than pleadings drafted by attorneys and will be liberally construed. *Campbell v. Air Jam. Ltd.*, 760 F.3d 1165, 1168 (11th Cir. 2014). However, a court may not "serve as de facto counsel for a party, or . . . rewrite an otherwise deficient pleading in order to sustain an action." *Id.* at 1168-69 (citation modified). Licensed attorneys who represent themselves do not receive the benefit of liberal construction of their pleadings. *Olivares v. Martin*, 555 F.2d 1192, 1194 (5th Cir. 1977).

We use a two-step process to evaluate whether claims survive Rule 12(b)(6), first determining the pleading requirements for

the cause of action, and second, considering whether the "well-pleaded factual allegations . . . plausibly suggest an entitlement to relief." *Caterpillar Fin. Servs. Corp. v. Venequip Mach. Sales Corp.*, 147 F.4th 1341, 1347 (11th Cir. 2025) (citation modified). The complaint must include factual allegations sufficient "to raise a right to relief above the speculative level." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements" are insufficient to state a claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Twombly*, 550 U.S. at 555). The complaint must contain "enough facts to state a claim to relief that is plausible on its face." *Twombly*, 550 U.S. at 570. Drawing on "judicial experience and common sense," we will determine whether a claim is facially plausible by examining whether the complaint "pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Caterpillar*, 147 F.4th at 1347 (quoting *Young v. Grand Canyon Univ., Inc.*, 57 F.4th 861, 867 (11th Cir. 2023), and *Resnick v. AvMed, Inc.*, 693 F.3d 1317, 1324 (11th Cir. 2012)).

Courts must accept the allegations in the complaint as true and construe those allegations "in the light most favorable to the plaintiff." *Id.* at 1346 (citation modified). However, we are "not bound to accept as true a legal conclusion couched as a factual allegation." *Iqbal*, 556 U.S. at 678 (citation modified).

EMTALA was enacted to address concerns about "emergency care providers transferring indigent patients from one

hospital to the next" without treating "the patients' emergency medical conditions," and "was not intended to be a federal malpractice statute." *Harry v. Marchant*, 291 F.3d 767, 770 (11th Cir. 2002) (en banc). "Under EMTALA, hospital emergency rooms are subject to two principal obligations, commonly referred to as the appropriate medical screening requirement and the stabilization requirement." *Id.* (citing 42 U.S.C. § 1395dd). A hospital violates EMTALA when it "either fails to adequately screen a patient, or discharges or transfers the patient without first stabilizing his emergency medical condition." *Kizzire v. Baptist Health Sys.*, 441 F.3d 1306, 1310 (11th Cir. 2006) (citing *Harry*, 291 F.3d at 770).

Section 1395dd's screening requirement provides that if hospitals screen patients "in a manner consistent with the screening that any other patient . . . would have received, there can be no liability under the EMTALA." *Nolen v. Boca Raton Cmty. Hosp.*, 373 F.3d 1151, 1155 (11th Cir. 2004); *see* 42 U.S.C. § 1395dd(a).

The stabilization requirement provides that "after a hospital determines that a person suffers from an 'emergency medical condition' it must provide whatever treatment, within its capabilities, is needed to stabilize the condition before transferring or discharging the patient." *Holcomb v. Monahan*, 30 F.3d 116, 117 (11th Cir. 1994) (quoting 42 U.S.C. § 1395dd(b)). An emergency medical condition is defined as:

> [A] medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in . . .

> (i) placing the health of the individual . . . in serious jeopardy, (ii) serious impairment to bodily functions, or (iii) serious dysfunction of any bodily organ or part[.]

42 U.S.C. § 1395dd(e)(1)(A).

Stabilization is defined as "provid[ing] such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility." *Id.* § 1395dd(e)(3)(A). To establish that a hospital violated the stabilization requirement, a plaintiff must show that (1) the patient had an emergency medical condition, (2) the hospital knew of the condition, and (3) the patient was not stabilized before being transferred or discharged. *See Holcomb*, 30 F.3d at 117. Because EMTALA mandates stabilization only if the hospital transfers or discharges a patient, the statute does not mandate a standard of care for patients who are not transferred or discharged. *Harry*, 291 F.3d at 771. Transfer under EMTALA "means the movement (including the discharge) of an individual outside a hospital's facilities." 42 U.S.C. § 1395dd(e)(4). The Fourth Circuit upheld the dismissal of an EMTALA claim where the patient was diagnosed with and treated for a less serious condition than the condition that which later resulted in the patient's death—a condition the hospital failed to diagnose—because the hospital satisfied EMTALA's screening requirement by providing the patient with the same medical screening it would other patients with similar symptoms and satisfied the stabilization requirement by treating

the condition it had detected. *Vickers v. Nash Gen. Hosp.*, 78 F.3d 139, 145 (4th Cir. 1996).

Section 489.24 does not provide a cause of action separate from EMTALA, but rather clarifies the Act's requirements. *See* 42 C.F.R. § 489.24. While not included in the text of § 1395dd, § 489.24 states that:

> If a hospital has screened an individual under paragraph (a) of this section and found the individual to have an emergency medical condition, and admits that individual as an inpatient *in good faith* in order to stabilize the emergency medical condition, the hospital has satisfied its special responsibilities under this section with respect to that individual.

Id. § 489.24(d)(2)(i) (emphasis added).

We have not directly addressed the application of § 489.24 in a published decision. The Fourth Circuit interpreted the good faith requirement to mean that "a hospital cannot admit an individual solely to evade liability under EMTALA." *Williams v. Dimensions Health Corp.*, 952 F.3d 531, 536 (4th Cir. 2020). Thus, while admission of a patient for treatment is a defense to an EMTALA claim, that defense can be countered by alleging, and ultimately proving, that a hospital did not admit the patient in good faith. *Id.* at 537 ("The good faith requirement simply clarifies that any admission must be legitimate and not in name only.").

Here, the district court properly determined that Plaintiffs failed to allege sufficient facts to state a screening claim under

EMTALA, because they merely alleged that the Hospital violated EMTALA by "failing to perform a simple urinalysis," causing Matthews "irreparable harm to [her] organs." While this is arguably an unartfully stated claim that the Hospital did not perform a urinalysis test on Matthews after learning that she was uninsured despite providing the test to insured patients exhibiting similar symptoms, this Court may not "rewrite an otherwise deficient pleading," even for *pro se* litigants. *Campbell*, 760 F.3d at 1168 69; *see Nolen*, 373 F.3d at 1155. Matthews and Moody alleged that the Hospital admitted Matthews upon her arrival and performed tests on her, detecting Matthews's malnutrition and vitamin deficiency, which comports with EMTALA's requirement that hospitals provide medical screening to patients who come to the hospital's emergency room. 42 U.S.C. § 1395dd(a). However, they did not allege the Hospital used different screening procedures for Matthews upon learning she was uninsured, which is required to properly plead a failure to screen claim under EMTALA. *Nolen*, 373 F.3d at 1155. As Matthews and Moody did not allege, even unartfully, that the Hospital provided urinalysis tests to similarly medically situated insured patients, their claim that the failure to provide Matthews with a urinalysis test caused her harm is more akin to a medical malpractice claim than a disparate treatment claim under EMTALA. *Id.* at 1155; *Marchant*, 291 F.3d at 770 (noting that EMTALA "was not intended to be a federal malpractice statute"). Therefore, in their original complaint, Matthews and Moody failed to properly state a claim that the Hospital violated EMTALA's screening requirement.

We turn next to Plaintiffs' claim that the Hospital failed to stabilize Matthews in violation of EMTALA's stabilization requirement. Plaintiffs alleged that on February 16, Plaintiff Lisa Matthews was brought to the Hospital's emergency room by an ambulance after she had collapsed at home and was briefly unconscious. Upon her arrival, she was admitted to the hospital and put in an inpatient room. Several tests were conducted (but not urinalysis) and she was diagnosed with, *inter alia*, malnutrition. They allege that then on February 17, a Hospital representative came to the patient's (i.e. Matthews') room and reported that Matthews' insurance[2] had lapsed due to non-payment. Plaintiffs allege that the Hospital made it clear at that point that because Matthews had no insurance, they wanted to discharge her as soon as possible. They also allege that, notwithstanding that the Hospital had diagnosed Matthews with malnutrition, the Hospital failed to feed her and stabilize her. Plaintiffs argue that the Hospital violated EMTALA's stabilization requirement by failing to stabilize her known emergency medical condition, malnutrition. The Hospital's Motion to Dismiss argued that Plaintiffs' stabilization claim failed for several reasons, including the fact that Plaintiffs concede that Matthews was admitted to the main hospital, which ends the reach of EMTALA's obligations under the authority of *Harry v. Marchant*, 291 F.3d 767 (11th Cir. 2002) (en banc), as well as the regulation 42 C.F.R. § 489.24.

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[2] Matthews' insurance information had been given to the paramedics with the ambulance.

The district court granted the Hospital's motion to dismiss. The district court held that Plaintiffs' stabilization claim failed for several reasons, including the fact that Matthews was admitted to the Hospital, which the court held ended the Hospital's obligations under EMTALA, citing 42 C.F.R. § 489.24.

After careful reconsideration of this case—including the record, the briefing, and the relevant case law—we conclude that the Plaintiffs have failed to state a viable stabilization claim under EMTALA. We conclude that Plaintiffs' concession that Matthews was admitted to the hospital and put in an inpatient room means that EMTALA's obligations cease to apply. Matthews was brought to the hospital by ambulance after having collapsed at home and being briefly unconscious. "[A]fter being triaged by the emergency room physician, [Matthews] was admitted to the hospital due to the pain she was experiencing." Plaintiffs' Response to Defendant Ascension St. Vincent's Clay County Hospital's Dispositive Motion to Dismiss, D.C. Doc. 11 at 16. Thus, it is undisputed that all of the challenged actions of the Hospital with respect to stabilization (and indeed also with respect to screening) occurred after Matthews had been removed from the emergency room and admitted to the main hospital.

The regulation issued under EMTALA—the regulation relied upon in the Hospital's motion to dismiss, and in the district court's order—provides that when an individual presents to a hospital's emergency department: "If the hospital admits the individual as an inpatient for further treatment, the hospital's obligation

under this section ends, as specified in paragraph (d)(2) of this section." 42 C.F.R. § 489.24 (a)(1)(ii). Paragraph (d)(2) provides:

> If a hospital has screened an individual under paragraph (a) of this section and found the individual to have an emergency medical condition, and admits that individual as an inpatient in good faith in order to stabilize the emergency medical condition, the hospital has satisfied its special responsibilities under this section with respect to that individual.

Id. § 489.24 (d)(2)(i).

The regulations find strong support in the case law. The Fourth Circuit in *Williams v. Dimensions Health Corporation*, 952 F.3d 531 (4th Cir. 2020), addressed EMTALA claims with respect to a plaintiff who was in an automobile accident and was brought to the defendant hospital's emergency room in the early hours of May 3, 2014. The hospital's screening procedures were employed and plaintiff received numerous tests and even surgery. At some point on May 3 he was admitted to the main hospital and remained eleven days before being transferred to another hospital where both of plaintiff's legs were amputated. Relying on Regulation § 489.24 as well as the case law, the Fourth Circuit held: "*Bryan*[3] makes clear that EMTALA's obligations end once a patient is admitted for treatment." 952 F.3d at 537; *see also id.* at 536 n.4 ("a hospital has no obligation under EMTALA to stabilize a patient's emergency medical condition once the patient is admitted.

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[3] *Bryan v. Rectors and Visitors of Univ. of Va.*, 95 F.3d 349, 351 (4th Cir. 1996).

Instead, relief for any criticisms of treatment fall in the area of state medical malpractice law."). The court adopted the Regulation's exception to that rule in cases involving lack of good faith with respect to the admission of the patient to the main hospital. Other circuit case law is in accord. *See Bryant v. Adventist Health Sys./W.*, 289 F.3d 1162, 1168 (9th Cir. 2002) ("We hold that EMTALA's stabilization requirement ends when an individual is admitted for inpatient care."); *see also id.* at 1169 ("After an individual is admitted for inpatient care, state tort law provides a remedy for negligent care. If EMTALA liability extended to inpatient care, EMTALA would be convert[ed] into a federal malpractice statute, something it was never intended to be.")(internal quotation and punctuation omitted).

Although our en banc decision in *Harry* does not expressly state that the admission of an individual as an inpatient in the main hospital operates to terminate a hospital's obligation to stabilize a patient, its rationale supports the proposition. The en banc decision vacated that part of the panel decision that had expressly rejected the hospital's argument that admission of the patient to the main hospital ended the hospital's obligations to stabilize the patient. *See panel opinion in Harry v. Marchant*, 237 F.3d 1315, 1321 (11th Cir. 2001) ("such a reading would permit hospitals to entirely defeat this provision by simply admitting a patient whom it has failed to stabilize."). The en banc decision turned expressly on the fact that there had been no transfer in that case; rather, the plaintiff's decedent had been moved out of the emergency room and admitted to the ICU department of the hospital, where she died.

However, it is clear that the plaintiff's challenge to the defendant hospital's actions included challenges to actions that occurred during the treatment of the plaintiff's decedent in the ICU, and the rationale of the decision was that EMTALA is a narrow focus on a hospital's obligations when an individual presents to a hospital's emergency department:

> Under EMTALA, when an individual presents for treatment at the emergency department of a hospital, the hospital must provide an appropriate medical screening to determine whether an emergency medical condition exists. If an emergency medical condition is determined to exist, the hospital ordinarily must provide stabilization treatment before transferring the patient.[4]

Harry, 291 F.3d at 768. Because the decedent had been admitted to the hospital's ICU department and died there, she had not been "transferred." The rationale of the en banc opinion is that EMTALA has a narrow focus on the "dumping" problem that Congress was addressing, and that the "the statute was not intended to be a federal malpractice statute, but instead was meant to supplement state law solely with regard to the provision of limited medical services to patients in emergency situations." *Id.* at 773; *see also id.* ("EMTALA was not intended to establish guidelines for patient care, to replace available state remedies, or to provide a federal

[4] In its footnote, the opinion sets out the statutory definition of the word "transfer"—i.e. the movement (including the discharge) of an individual outside of a hospital's facilities." 291 F.3d at 768 (quoting 42 U.S.C. § 1395dd(e)(4)).

remedy for medical negligence."). Thus, when plaintiff's decedent was moved out of the emergency department and admitted for inpatient treatment in the hospital's ICU, the EMTALA obligations ceased. That this was the rationale of the en banc court is confirmed in the court's footnote 11:

> Additionally, interpreting EMTALA to require stabilization treatment outside the context of a transfer raises questions not answered by Congress, such as: when the duty to provide stabilization treatment terminates; if treatment is prolonged, and transfer is not imminent, how long treatment must be provided; and when the temporal delay between a determination of an emergency medical condition and the initiation of treatment constitutes a violation of a duty to provide stabilization treatment. Of course, such an interpretation would lead to the imposition of arbitrary limits, not supported by the statutory text, in an effort to fill the patent gaps of legislative direction.

Id. at 772 n.11.[5]

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[5] We note that the Sixth Circuit, in *Moses v. Providence Hospital and Medical Services*, 561 F.3d 573 (6th Cir. 2009), has held that Regulation § 489.24(d)(2)(i) is invalid. However, in the instant case, Plaintiffs have at no point in this litigation challenged the validity of § 489.24(a)(1)(ii) or § 489.24(d)(2)(i). To the contrary, Plaintiffs expressly relied on § 489.24 in their original complaint, and both parties have relied on the regulation throughout this litigation, as did the district court. Accordingly, Plaintiffs have not preserved for appeal any challenge to the validity of the regulation. Moreover, *Moses* may be inconsistent with our en banc decision in *Harry*. Indeed, the Fourth Circuit in *Williams* indicated that the regulation "adopted the approach of *Bryan* and the approach of other circuits, including *Harry*, providing should a hospital determine that

The Regulation § 489.24(d)(2)(i) and the case law provide for an exception to the rule that admitting an individual to the hospital as an inpatient ends a hospital's EMTALA obligations—i.e. when such an admission to the main hospital is lacking in good faith (e.g. an admission for the purpose of avoiding EMTALA obligations). However, Matthews and Moody have not argued that Matthews' admission to the Hospital was in bad faith. Moreover, the facts that they do allege make clear that they could not adduce evidence of bad faith. The only evidence of bad faith suggested in Plaintiffs' factual allegations is the allegation that the Hospital wanted to discharge Matthews as soon as it learned she had no insurance. However, the factual allegations are clear—i.e. that Matthews was admitted to the main hospital shortly after arriving at the emergency room. It is also clear that, at the time of her admission—on February 16—everyone thought Matthews had insurance coverage. She had given her insurance information to the paramedics with the ambulance. Plaintiffs clearly alleged that it was the day after her admission—February 17—that the Hospital learned her coverage had lapsed for nonpayment. Thus, it is clear that, at the time that Matthews was admitted to the hospital, the factual allegations contain no suggestion that the admission was lacking in good faith.[6]

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it would be better to admit the individual as an inpatient, such a decision would not result in a transfer or a discharge, and, consequently, the hospital would not have an obligation to stabilize under EMTALA." 952 F.3d at 535 (internal quotation omitted).

[6] Nor have Plaintiffs preserved for appeal any other exception (in addition to the exception for an admission lacking in good faith) to the rule that an

In sum, on the basis of the foregoing authorities, we conclude that Matthews' admission to the main hospital ended the Hospital's stabilization obligations under EMTALA and that remedies for criticism of the Hospital's actions thereafter would lie with the Florida tort law.

B. Motion to Amend and Motion to Alter or Amend Judgment

We review for an abuse of discretion the denial of leave to amend a complaint but review *de novo* "the underlying legal conclusion of whether a particular amendment to the complaint would be futile." *Chang v. JPMorgan Chase Bank, N.A.*, 845 F.3d 1087, 1093-94 (11th Cir. 2017) (citation modified). We review the denial of a Rule 59(e) motion to alter or amend judgment for abuse of discretion. *Berry v. Crestwood Healthcare LP*, 84 F.4th 1300, 1313 (11th Cir. 2023).

In general, a district court should freely grant leave to amend a complaint when justice so requires, unless amending the complaint would be futile. *Chang*, 845 F.3d at 1094. In addition, a district court must give a *pro se* plaintiff at least one opportunity to amend his complaint before dismissing the action with prejudice, even if the plaintiff does not request leave to amend until after final

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admission to the Hospital as an inpatient ends EMTALA obligations. For example, Plaintiffs have not preserved for appeal their vague suggestion in their initial brief on appeal that there should be an additional exception because Matthews might have been admitted solely for the conduct of the required EMTALA screening—and not for treatment as a regular inpatient.

judgment, unless the plaintiff clearly indicates that they do not want to amend their complaint, or a more carefully drafted complaint could not state a claim. *Woldeab v. Dekalb Cnty. Bd. of Educ.*, 885 F.3d 1289, 1291 (11th Cir. 2018). Unless one of these exceptions applies, the district court must advise the *pro se* plaintiff of the deficiencies in their complaint and provide an opportunity for amendment before dismissing it with prejudice. *Id.* at 1291-92.

"When deciding whether to grant leave to amend, a court considers five factors: (1) undue delay, (2) bad faith or dilatory motive, (3) repeated failure to cure deficiencies by amendment, (4) undue prejudice to the opposing party by virtue of allowance of the amendment, and (5) futility." *Blackburn v. Shire US Inc.*, 18 F.4th 1310, 1317-18 (11th Cir. 2021). Without the presence of at least one of these factors to justify a district court's decision to refuse a party the opportunity to amend their complaint, leave to amend should be "freely given." *Foman v. Davis*, 371 U.S. 178, 182 (1962) (quoting Fed. R. Civ. P. 15(a)(2)). Leave to amend would be futile "if an amended complaint would still fail at the motion-to-dismiss or summary-judgment stage." *L.S. ex rel. Hernandez v. Peterson*, 982 F.3d 1323, 1332 (11th Cir. 2020). "A district court may find undue delay when the movant knew of facts supporting the new claim long before the movant requested leave to amend, and amendment would further delay the proceedings." *Tampa Bay Water v. HDR Eng'g, Inc.*, 731 F.3d 1171, 1186 (11th Cir. 2013), *overruled on other grounds by CSX Transp., Inc. v. Gen. Mills, Inc.*, 846 F.3d 1333, 1340 (11th Cir. 2017).

We review "the denial of a Rule 59 motion for abuse of discretion." *Arthur v. King*, 500 F.3d 1335, 1343 (11th Cir. 2007). "The only grounds for granting a Rule 59 motion are newly-discovered evidence or manifest errors of law or fact." *Arthur*, 500 F.3d at 1343 (citation modified). "A Rule 59(e) motion cannot be used to relitigate old matters, raise argument or present evidence that could have been raised prior to the entry of judgment." *Id.* (citation modified). We have upheld a denial of a Rule 59(e) motion when the plaintiff "failed to establish a clear error of law . . . as required." *Gulisano v. Cohen*, 34 F.4th 935, 945 (11th Cir. 2022). We found a denial of a Rule 59(e) motion to be an abuse of discretion when the district court improperly denied a motion to dismiss a third-party petition opposing a criminal forfeiture order, because the district court, by misapplying the relevant statute and rule, erroneously found that the petitioner's filing was timely. *United States v. Marion*, 562 F.3d 1330, 1341-42 (11th Cir. 2009).

The district court denied both Plaintiffs' Rule 59(e) motion and their motion to amend based on several grounds. Only one of such grounds—the futility of Plaintiffs' Proposed Amendment—is relevant for our decision on appeal.

We conclude that the district court did not err in denying Plaintiffs' Rule 59(e) motion and their motion to amend. The Rule 59(e) motion was essentially a method by which Plaintiffs sought to belatedly file their motion to amend, so the futility of Plaintiffs'

motion to amend also means that there was no error in the district court's denial of the Rule 59(e) motion.

With respect to Plaintiffs' stabilization claim, the Proposed Amendment adds no factual allegations suggesting that Matthews' admission to the hospital as an inpatient was a decision made in the absence of good faith. The factual allegations in the Proposed Amendment continued to indicate that the decision to admit Matthews was made the day before the Hospital learned that her insurance had lapsed for nonpayment. And the Proposed Amendment added no other factual allegations suggesting a bad faith admission and neither Plaintiffs' Rule 59(e) motion nor the Proposed Amendment even assert a lack of good faith.

Turning to the Proposed Amendment and Plaintiffs' screening claim under EMTALA, the Proposed Amendment did add an allegation that the Hospital deviated from its normal screening procedures by failing to provide Matthews with a urinalysis test, adding an allegation that patients with similar symptoms would have received that test. That allegation might have sufficed in other circumstances (e.g. when the proposed amendment is not futile) to warrant a grant of the Rule 59(e) motion to the extent of allowing such amendment. However, the Proposed Amendment only reemphasizes that Matthews was admitted as an inpatient, and that all of Plaintiffs' challenges to the actions of the Hospital—including all of Plaintiffs' challenges to the screening procedures employed by the Hospital—occurred well after Matthews was admitted to the main hospital as an inpatient. As explained above with respect

to Plaintiffs' stabilization claim, the regulation and the case law indicate that EMTALA obligations end when an individual is admitted to the main hospital as an inpatient. In other words, it is clear that Plaintiffs' proposed amendment with respect to their screening claim would be futile.

In their Letter Brief in Response to Appellee's Motion for Rehearing, Plaintiffs argue for the first time that whether or not Matthews was admitted to the hospital as an inpatient is a disputed fact. Although Plaintiffs' Letter Brief acknowledges that "when they authored the original complaint . . . it was believed that the hospital admitted patient Matthews," Letter Brief at 4, they assert for the first time that that has become a "questionable fact," *id.*, and that Matthews was not ever "formally admitted," *id.* However, this new assertion is inconsistent with the express allegations, both in Plaintiffs' original Complaint and in their Proposed Amended Complaint. In their original Complaint, plaintiffs alleged: "Upon arrival to the hospital, Plaintiff, Lisa Matthews was admitted." Doc. 1 at ¶ 3. Plaintiffs' Proposed Amended Complaint similarly alleged: "When Plaintiff Lisa Matthews arrived at Ascension St. Vincent's Clay County Hospital, she was immediately put in an in-patient room." Doc. 13-1 at 1. The fact that Plaintiff Matthews was admitted as an inpatient has been acknowledged by both parties and the district court. See, e.g., Plaintiffs' Response to Defendant Ascension St. Vincent's Clay County Hospital's Dispositive Motion to Dismiss, Doc. 11 at 16 ("after being triaged by the emergency room physician, [Matthews] was admitted to the hospital due to the pain

she was experiencing"). In that Response to the Hospital's Motion to Dismiss, Plaintiffs continued:

> At the time the Plaintiff, Lisa Matthews was being admitted, the hospital believed she had medical insurance because the Plaintiffs believed that as well. . . . It only became clear the next day on February 17, 2020, (after admitting Plaintiff, Lisa Matthews on February 16, 2020) that she did not in fact have medical insurance. . . . The real issue then became when the hospital confirmed that Plaintiff, Lisa Matthews, had no medical insurance, it was then that they couldn't "dump" her quickly enough.

Id. at 16-17.

In other words, the factual allegations of the Complaint and the Proposed Amended Complaint portrayed to the district court that Matthews was almost immediately moved from the emergency room and then admitted to the main hospital as an inpatient. Our precedent is well established that we will not entertain a belated attempt to introduce on appeal a new theory of the case based on new facts, much less such an attempt as Plaintiffs make here in a response to a petition for rehearing. *Access Now, Inc. v. Sw. Airlines Co.*, 385 F.3d 1324, 1331 (11th Cir. 2004).

For the reasons set out above, Plaintiffs' EMTALA claims fail, and the district court did not err in dismissing their original complaint and denying their motions to alter or amend and for leave to file their Proposed Amended Complaint.

C. Florida Law Claim

Florida Statutes section 395.1041 provides that "any person who suffers personal harm as a result of a violation of this statute may recover damages in a civil action against the responsible hospital administrative or medical staff or personnel." *Ramsay v. S. Lake Hosp.*, 357 So. 3d 253, 256 (Fla. 5th Dist. Ct. App. 2023). Under Florida law, "a person seeking to pursue a civil cause of action solely within the confines of Chapter 395 needs only to establish that the plaintiff was 'dumped' and that damages resulted," and they need not comply with the medical malpractice pre-filing requirements of Chapter 766. *Porter, Brown, Chitty & Pirkle, M.D.P.A. v. Pearson*, 793 So. 2d 1012, 1012 (Fla. 3rd Dist. Ct. App. 2001). "All individuals who present at a hospital's emergency room must be screened for emergency medical conditions and either stabilized or transferred to another medical facility in the event the determination is made that an emergency condition exists." *Agency for Health Care Admin. v. Baker County Med. Servs.*, 832 So. 2d 841, 843 n.3 (Fla. 1st Dist. Ct. App. 2002). Section 395.1041 allows patients to recover "against the responsible hospital administrative or medical staff or personnel," but makes no mention of recovery directly from hospitals themselves. Fla. Stat. § 395.1041(5)(b). A Florida appellate court noted that "[t]he statute does not expressly prohibit or permit liability of the hospital under respondeat superior," but did not answer the question of whether a patient can recover from a hospital under such a theory. *Cintron v. St. Joseph's Hosp.*, 112 So. 3d 685, 687 (Fla. 2d Dist. Ct. App. 2013). We have noted the similarities between the requirements imposed on hospitals by section

395.1041 and EMTALA. *Baker County Med. Servs. v. United States AG*, 763 F.3d 1274, 1277 (11th Cir. 2014).

Here, the district court did not err in dismissing Moody and Matthews's claim under section 395.1041, because Moody and Matthews sued the Hospital directly and the plain text of the statute only permits suits "against the responsible hospital administrative or medical staff or personnel." Moreover, the district court dismissed the claim without prejudice, and Matthews and Moody could have refiled the claim naming the proper defendant. Thus, the district court did not err by dismissing their section 395.1041 claim, denying their Rule 59(e) motion with respect to that claim, or denying them leave to amend that claim prior to dismissing it without prejudice.

II. CONCLUSION

For the foregoing[7] reasons, the judgment of the district court is affirmed in all respects.

[7] We acknowledge that—if the Plaintiffs' factual allegations are true (which of course we do not know at this time)—Matthews was poorly treated by the Hospital. However, it has become clear to us that EMTALA does not provide a remedy for Plaintiffs' claims. Rather, their potential remedy was pursuant to a state law malpractice claim. Unfortunately, Plaintiffs did not plead a state law malpractice claim—either in their original complaint or in their Proposed Amendment—of which the district court might have assumed supplemental jurisdiction. Indeed, Plaintiffs expressly disavowed having pled a medical malpractice claim. D.C. Doc. 14 at 6.

AFFIRMED.[8]

[8] Andrew S. Bolen's motion to file an amicus brief in support of Petitioner's petition for rehearing en back or panel rehearing is DENIED as moot in light of the grant of panel rehearing and the withdrawal of the panel's previous opinion which the proposed amicus brief challenged.