IN THE CHANCERY COURT, STATE OF WYOMING

2026 WYCH 2

SAPPHIRE STRATEGIC ADVISORY, LLC, a New Jersey Limited Liability Company, Plaintiff, v. ALTIUS STRATEGIC CONSULTING LLC, a Wyoming Limited Liability Company, Defendant.	Docket No. CH-2025-0000013

ORDER ON MOTIONS IN LIMINE

[¶1] This is a compensation dispute. The parties executed a contract providing that under certain conditions Sapphire would receive bonuses from Altius. When Altius withheld bonus payments, Sapphire sued for breach of contract and breach of the implied covenant of good faith and fair dealing.[1]

[¶2] Both sides have filed motions in limine to exclude evidence (FSX Nos. 77993987, 77993810) and have responded to each other's motions (FSX Nos. 78045665, 78048418). The court heard argument on these motions during a pretrial conference. This order resolves the motions in writing in advance of trial.

STANDARDS & RULES

[¶3] The motions in limine raise several issues under the rules of civil procedure and the rules of evidence. To provide context for its rulings, the court identifies the purpose of motions in limine and summarizes the applicable rules below.

Motions in Limine

[¶4] A motion in limine permits the parties "to obtain the court's pretrial ruling on the admissibility of evidence." *Elsner v. Campbell Cnty. Hosp. Dist.*, 2025 WY 37, ¶ 75, 566 P.3d 894, 914 (Wyo. 2025) (quoting *Three Way, Inc. v. Burton Enters., Inc.*,

[1] The court summarized this case in greater detail in its recent order denying Altius's motion for summary judgment. *Sapphire v. Altius*, 2026 WYCH 1 (Wyo. Ch. C. Jan. 13, 2026).

2008 WY 18, ¶ 18, 177 P.3d 219, 225 (Wyo. 2008)). These pretrial rulings streamline trial. *U.S. v. Sanchez*, 655 F. Supp. 3d 1062, 1064–65 (D. Idaho 2023). Deciding motions in limine rests in the sound discretion of the trial court. *Elsner*, ¶ 75, 566 P.3d at 914.

Late Disclosures under W.R.C.P.Ch.C. 26(a), (e) & 37(c)

[¶5] Early in a case, defending parties must usually, without waiting for a discovery request, disclose to all other parties "all documents" in their "possession, custody, or control" that they "may use" to defend the claims brought against them. W.R.C.P.Ch.C. 26(a)(1)(A)(ii). These initial disclosures are subject to an ongoing duty to supplement: "A party who has made a disclosure under Rule 26(a) . . . must supplement or correct its disclosure . . . in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect[.]" W.R.C.P.Ch.C. 26(e)(1)(A). Rule 26(e) supplementation is intended to "correct inaccuracies" and "cannot be used to circumvent deadlines" of a case's scheduling order. *Cope v. Auto-Owners Ins. Co.*, No. 118CV00051WJMSKC, 2022 WL 889098, at *1 (D. Colo. Mar. 25, 2022).

[¶6] The rules presume that late-disclosed evidence will be excluded at trial, unless the failure to timely disclose was "substantially justified or is harmless[.]" W.R.C.P.Ch.C. 37(c)(1). The "party seeking admission of the evidence has the burden of demonstrating that the failure to disclose it was substantially justified or harmless." *Downs v. Homax Oil Sales, Inc.*, 2018 WY 71, ¶ 28, 421 P.3d 518, 525 (Wyo. 2018). Five factors guide the inquiry:

> 1. whether allowing the evidence would incurably surprise or prejudice the opposing party;
>
> 2. whether excluding the evidence would incurably prejudice the party seeking to introduce it;
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> 3. whether the party seeking to introduce the testimony failed to comply with the evidentiary rules inadvertently or willfully;
>
> 4. the impact of allowing the proposed testimony on the orderliness and efficiency of the trial; and
>
> 5. the impact of excluding the proposed testimony on the completeness of the information before the court . . . .

Id.

[¶7] As suggested by these factors, the timing of the disclosure is not conclusive. Severely late disclosure—even evidence disclosed four days before trial—is "harmless" when it is evident that the recipient was nonetheless "sufficiently prepared" to challenge the evidence. *Id.* ¶ 29 (discussing *Dishman v. First Interstate Bank*, 2015 WY 154, ¶ 29, 362 P.3d 360, 370 (Wyo. 2015)). The court may also consider how the receiving party reacted to the late disclosure. *Dishman*, ¶ 30, 362 P.3d at 370 (failure to take advantage of an offer to continue trial suggested that the failure to timely provide information required under Rule 26 was harmless).

W.R.E. 408. Compromise Offers and Negotiations.

[¶8] "W.R.E. 408 prohibits admission of evidence of settlement negotiations to prove liability." *Bd. of Pro. Resp., Wyoming State Bar v. Hinckley*, 2022 WY 18, ¶ 96, 503 P.3d 584, 619 (Wyo. 2022). Specifically, Rule 408 provides:

> Evidence of (1) furnishing or offering or promising to furnish, or (2) accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible. This rule does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negativing a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

[¶9] The rule's prohibition is grounded in public policy to encourage settlement. *Haderlie v. Sondgeroth*, 866 P.2d 703, 713 (Wyo. 1993). This public policy is "so strong" that this type of evidence is "considered to be highly prejudicial." *Id.* (internal quotations omitted). While prejudice is high, relevance is limited because an offer to compromise "may be motivated by a desire for peace, rather than any concession of weakness." *Id.* (internal quotations omitted).

[¶10] The prohibition is not without limits. Rule 408 does not prohibit settlement evidence that is "not offered to prove liability." *Id.* For example, the rule "does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice." *Smyth v. Kaufman*, 2003 WY 52, ¶ 28, 67 P.3d 1161, 1169 (Wyo. 2003). Yet, "exception(s)" to the rule "should be used sparingly" and "with due care" to avoid "undermining the rule's public policy objective." *Haderlie*, 866 P.2d at 713. (citing J. Weinstein, Weinstein's Evidence ¶ 408[05] at 408–31 (1991)). In most cases, "[i]t is difficult to find a justification for permitting the use of compromise evidence to show witness bias." 23 Wright & Miller, Fed. Prac. & Proc. Evid. § 5311 (2d ed.). Such evidence is typically used to show the bias of a witness who has settled a related claim with an opponent. *Id.* ("The vast bulk of the common law cases . . . deal with the following situation: one party calls a witness to testify in her behalf and on cross-

examination the opponent wishes to show that the witness and the party calling the witness have entered into a compromise of a related claim.").

[¶11] Unlike its common-law counterpart, Rule 408 excludes unconditional factual statements made in compromise negotiations. *Coulter, Inc. v. Allen*, 624 P.2d 1199, 1202–03 (Wyo. 1981) ("Rule 408 is founded on public policy to encourage out of court settlements and is in the nature of a privilege. The common-law rule relative thereto was enlarged to preclude the introduction of evidence of conduct or statements made in compromise negotiations.") (cleaned up).[2]

W.R.E. 401 – 403. Relevance and Unfair Prejudice.

[¶12] Evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." W.R.E. 401. Irrelevant evidence is not admissible. W.R.E. 402. Relevant evidence is admissible unless otherwise excluded by statute or rule. *Id.* Relevant evidence may be excluded if its probative value is substantially outweighed by unfair prejudice, confusion, undue delay, waste of time, or needless presentation of cumulative evidence. W.R.E. 403. Relevance "depends on the unique facts of a case. It could be relevant at the time the question is asked, or it could become relevant later based on other evidence or argument." *Soares v. State*, 2024 WY 39, ¶ 24, 545 P.3d 871, 878 (Wyo. 2024) (quoting *Gutierrez v. State*, 2020 WY 150, ¶ 23, 477 P.3d 528, 534 (Wyo. 2020) (Kautz, J., specially concurring)).

WRE. 801 – 803. Hearsay and Exceptions.

[¶13] "'Hearsay' is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." W.R.E. 801(c). Hearsay is generally inadmissible. W.R.E. 802. There are several exceptions to this general rule. W.R.E. 803. A "firmly rooted exception to the exclusionary hearsay rule" is "the admission of business records." *Blair v. State*, 2022 WY 121, ¶ 18, 517 P.3d 597, 601 (Wyo. 2022) (citations omitted). This exception

[2] *See also* 2 McCormick on Evid. § 266 (9th ed.) ("The historically accepted doctrine held that an admission of fact in the course of negotiations was not privileged unless it was stated hypothetically ('we admit for the sake of the discussion only'), expressly made 'without prejudice,' or inseparably connected with the offer so that it could not be correctly understood without considering the two together. The traditional doctrine of denying the protection of the exclusionary rule to statements of fact had serious drawbacks. It discouraged freedom of communication in attempting compromise and involved difficulties of application. As a result, the trend has been to extend the protection to all statements made in compromise negotiations, and this approach is generally followed by Federal Rule 408"; *Winchester Packaging, Inc. v. Mobil Chem. Co.*, 14 F.3d 316, 320–21 (7th Cir. 1994) ("Mobil cites *Hiram Ricker* . . . for the proposition that unqualified factual statements made in the course of settlement negotiations, such as, 'You owe me $X,' as distinct from hypothetical or conditional statements ('I will drop my suit if you pay me $X'), are excepted from the rule barring evidence of settlement negotiations. This much-criticized exception . . . which was in decline when Rule 408 was promulgated . . . does not appear in the rule, and the Notes of the Advisory Committee make clear that the omission was intentional.").

admits records made at or near the time by a person with knowledge, kept in the course of a regularly conducted business activity, and made in accordance with the regular practice of the business, as shown by the testimony of a custodian or qualified witness. W.R.E. 803(6); *Blair*, ¶ 26, 517 P.3d at 603–04.

[¶14] Electronic documents, like PowerPoints and emails, that a proponent uses to establish notice or knowledge of a fact are not hearsay; such documents are not offered to prove the truth of the matter asserted but rather "have legal significance independent of their assertive quality[.]" *Jontra Holdings Pty Ltd v. Gas Sensing Tech. Corp.*, 2021 WY 17, ¶ 67, 479 P.3d 1222, 1241 n.12 (Wyo. 2021) (quotation omitted) (emails); *In re Smith & Nephew Birmingham Hip Resurfacing, Hip Implant Prods. Liab. Litig.*, No. 1:17-CV-00944, 2022 WL 171503, at *5 (D. Md. Jan. 18, 2022) (PowerPoint).

W.R.E. 901 – Authentication

[¶15] W.R.E. 901 establishes the fundamental requirements for authenticating evidence as a prerequisite admissibility. *Paden v. Paden*, 2017 WY 118, ¶ 23, 403 P.3d 135, 142 (Wyo. 2017). Under the rule, "[a]uthentication is shown by evidence sufficient to support a finding that the matter in question is what the proponent claims it is." *Adams v. State*, 2005 WY 94, ¶ 25, 117 P.3d 1210, 1218 (Wyo. 2005). "The burden to show authentication is not a heavy one." *Paden*, ¶ 23, 403 P.3d at 142 (quoting *Taul v. State*, 862 P.2d 649, 657 (Wyo. 1993)). Although showing that the exhibit is as claimed is not difficult, failing to do so makes the exhibit inadmissible. *Story v. State*, 2001 WY 3, ¶ 11, 15 P.3d 1066, 1068 (Wyo. 2001). Authentication issues are "best left for trial." *U.S. v. Thrush*, No. 1:20-CR-20365, 2024 WL 3623504, at *6 (E.D. Mich. July 31, 2024) (citing *Roche Diagnostics Corp. v. Shaya*, 679 F. Supp. 3d 588, 121 Fed. R. Evid. Serv. 2023 (E.D. Mich. 2023)). *See also U.S v. Ulbricht*, 79 F. Supp. 3d 466, 487–88 (S.D.N.Y. 2015) (Whether a party "can meet Rule 901's authentication standard with respect to the challenged exhibits is a question best answered at trial.").

DISCUSSION

[¶16] The court addresses the requests in this sequence: (1) Altius's motion to exclude pre-suit settlement discussions; (2) Sapphire's motion to exclude operational meeting slides; (3) Sapphire's motion to exclude email on partner contributions; (4) Sapphire's motion to exclude self-assessment emails; and (5) Sapphire's motion to exclude anticipated testimony regarding alleged comments by Mr. Dutta.

Altius's Motion to Exclude Pre-Suit Settlement Discussions (Ex. 4, SSA-000012-18)

[¶17] Altius moves to exclude an email chain documenting negotiations between March 20 and April 8, 2025. The email chain is bates-stamped SSA-000012-18 and identified as Exhibit 4 in both the joint pretrial memorandum and plaintiff's final exhibit list.

[¶18] Altius argues the exhibit is inadmissible under W.R.E. 408 because it reflects compromise discussions intended to settle disputed claims. *Defs.' MIL*, at 2–3.

[¶19] Sapphire responds that the email will be used for permissible purposes, such as demonstrating that payment would be made, that Sapphire was meeting expectations, that Altius's financial condition allowed it to make payments, and that there was bias. *Pl.'s Resp to Defs' MIL*, at 2–4.

[¶20] Evidence of settlement negotiations is inadmissible to prove liability. W.R.E. 408. Admitting settlement discussions for other purposes must be done cautiously to avoid undermining the strong public policy reasons underlying this rule.

[¶21] The email chain starts with a "proposal" that two sums—one for first quarter and one for the second and third quarters of 2024—would be "settled" and paid in 2025. The response to that proposal first thanks Altius's representative for his time "for walking us through the draft offer for Sapphire." Follow-up annotation added that "we shall settle this in 10 equal installments." The court finds sufficient indication that Altius's proposal was meant to settle the current dispute, bringing these communications within Rule 408. That rule "preclude[s] the introduction of evidence of conduct or statements" made in the emails. *Coulter*, 624 P.2d at 1202–03. Contrary to Sapphire's argument, Altius's proposal did not need to be couched as a hypothetical condition to be excluded under Rule 408. *Id.*

[¶22] The court does not find the alternative purposes Sapphire suggests sufficient to overcome Rule 408's exclusion policy. Altius's proposal to increase Sapphire's base rate going forward could well have been motivated by a desire to settle the dispute and does not necessarily reflect Sapphire's 2024 performance. Likewise, Altius's proposal does not necessarily mean it had sufficient funds to pay bonuses. For example, Altius may have intended to borrow money to pay Sapphire the amounts proposed in the emails. In any event, the court is not convinced that introduction for these purposes is grounds different from those prohibited by the rule. Using the emails to show that Sapphire met the PSA's performance condition and that Altius met the PSA's "business performance" condition—suggesting liability for the bonus payment—is expressly prohibited under Rule 408.

[¶23] Sapphire's final alternative purpose is that the emails will be used to show bias. Sapphire suggests that its "failure to agree to terms under a 2025 contract could have contributed to Altius's failure to make payments under the 2024 PSA." Specifically, Sapphire argues that its failure to accept Altius's settlement offer could show that the testimony of Altius's chief operating officer, Mr. Arjun, is biased. The emails are unnecessary to show such bias. Mr. Arjun's interest in the outcome of this lawsuit can be presumed from his involvement with and connection to Altius, a party to this case. *See* 23 Wright & Miller, Fed. Prac. & Proc. Evid. § 5311 (2d ed.) ("The interest of a party in the outcome of the case is obvious.").

[¶24] Because the email chain constitutes settlement negotiations within the meaning of W.R.E. 408 and none of Sapphire's proposed alternative purposes justify admission, Altius's motion is **GRANTED.** The document bates-stamped SSA-000012-18 and marked as Exhibit 4 is excluded in full.

Sapphire's Request to Exclude Operational Meeting Slides (Ex. D, ASC 860–65; Ex. E, ASC866-75).

[¶25] Sapphire seeks exclusion of two sets of PowerPoint slides that were produced after the discovery cutoff. One set of slides is bates-stamped ASC 860-865, labeled Exhibit W in the joint pretrial memo, and labeled Exhibit D in Altius's final exhibit list. The other set is bates-stamped ASC 866-75 and also labeled Exhibit W in the pretrial memo but is labeled Exhibit E in the final exhibit list. The slides appear to have been used in operational meetings and may suggest that Altius set and communicated revenue and profit targets to its contractors. One slide also appears to outline the performance review process.

[¶26] Sapphire argues that untimely disclosure, hearsay, lack of authentication, and irrelevance preclude admission. *Pl.'s MIL*, at 3–5. Sapphire sees exclusion as the only remedy under Rule 37(c)(1) because the late production was unjustified and deprived it of the ability to conduct further discovery into the slides. *Id.*

[¶27] Sapphire also questions the slides' authenticity under W.R.E. 901. Given the late disclosure, Sapphire is concerned that the slides were created or altered after the deposition. *Id.* at 4. Sapphire further objects on hearsay grounds, asserting the slides contain out-of-court statements that Altius may use to show that it set revenue and profit targets under the PSA. *Id.* at 4-5.

[¶28] Lastly, Sapphire questions the relevance of the slides and argues that any probative value they may have is substantially outweighed by prejudice. The slides are irrelevant because they refer to 2023, not 2024, and to "GTM" or "Go to Market Team," which Sapphire did not belong to, according to Sapphire. *Id.* at 5. Sapphire worries that admitting these slides will confuse the court about the year and teams at issue. *Id.*

[¶29] Altius concedes the slides were produced after the discovery cut-off, but contends that late disclosure was harmless under the five factors articulated in *Downs*. *Defs.' Resp. to Pl.'s MIL, at 2–5*. Altius asserts: (1) Sapphire learned of the targets during Mr. Arjun's deposition and obtained an expert opinion on them; (2) exclusion would prejudice Altius because the slides rebut Sapphire's claim that no targets were set; (3) the failure was inadvertent—Mr. Arjun did not recall the slides until his deposition, and after he remembered them, Altius located and produced the documents two months before trial; (4) authentication can be established through Mr. Arjun's testimony without disrupting trial; and (5) exclusion would impair the completeness of the record given Sapphire's anticipated argument that it lacked knowledge of targets. *Id.*

[¶30] As to the authentication concerns, Altius notes Sapphire's lack of evidence to support its theory. *Id.* at 6-7. As to the hearsay objection, Altius invokes the business records exception and previews Mr. Arjun's anticipated testimony satisfying the foundational elements of that exception. *Id.* at 6. And, as to the relevance objections, Altius notes that whether it set targets—along with the amounts of those targets—is highly consequential. *Id.* at 7. Altius contends that testimony will show "these targets applied to the entire organization—not just the Go-to-Market Team." *Id.* at 7-8. In making this argument, Altius notes that Sapphire has not specified how a slide titled "Altius Strategic Consulting FY24 Goals" could confuse the court. *Id.*

[¶31] Altius has carried its burden of showing that its late disclosure of the slides was harmless.

[¶32] First, and most significant, the parties moved on November 12—five days after receiving the late disclosure—to extend certain discovery deadlines in the case; the following day, the court granted that request and moved the deposition deadline for experts to December 5. (FSX Nos. 77754449 & 77776122). At that time, Sapphire did not request further questioning of Mr. Arjun or otherwise seek to address the late disclosure. Sapphire's expert witness was deposed on December 4, after Sapphire had received the late-disclosed slides. And as noted by Altius, that expert opined on the reasonableness of the profit targets reflected in the slides. Sapphire will not be incurably surprised or prejudiced by the slide's admission. *See Dishman*, ¶ 30, 362 P.3d at 370.

[¶33] Second, excluding the slides would not incurably prejudice Altius, because as indicated in the court's earlier summary judgment order, the law defaults to an objective measure for contracts conditioned on the obligor's satisfaction with profitability. That said, an exhibit reflecting Altius's target setting would carry more weight than testimony alone; Altius would suffer some prejudice if the slides were excluded.

[¶34] Third, the October 16 deposition of Mr. Arjun, which fell on the day before the close of discovery, compared with the November 7 disclosure of the slides and the

scheduled trial date of January 20, 2026, suggests that the late disclosure was inadvertent.

[¶35] Fourth, the orderliness and efficiency of the trial will be minimally impacted if the slides are admitted into evidence: Altius seeks to admit two exhibits that, combined, consist of 16 slides.

[¶36] Finally, excluding the slides would make the record less complete, which weighs against exclusion considering this case will be decided by the court. On balance, the late disclosure of these exhibits was harmless.

[¶37] The hearsay objection does not warrant exclusion at this stage, either. If the slides are offered solely to establish that Sapphire had knowledge of the targets, they are not offered for the truth of the matter asserted and therefore do not constitute hearsay. But if Altius offers the slides to show that it set profit and revenue targets and to identify those targets, the slides would be offered for the truth of the matter asserted and would constitute hearsay. Any hearsay concerns may be addressed through the business-records exception upon an appropriate foundational showing under W.R.E. 803(6). Whether Altius can make that showing remains to be seen. Accordingly, the court reserves ruling on whether the slides should be excluded as inadmissible hearsay.

[¶38] The relevance objection is unconvincing. The parties dispute whether Altius set and communicated revenue and profit targets under the PSA. The slides suggest that Altius may have set and communicated these targets. Sapphire argues that any probative value is substantially outweighed by unfair prejudice in confusing the court as to the year and team referenced in the slides. The scope of the slides is disputed: Sapphire points to references in the slides to "2023" and "GTM," while Altius notes that one slide is titled "Altius Strategic Consulting FY24 Goals." The court is well positioned to review the slides, hear testimony, and determine the meaning and the importance of the slides to the legal and factual issues in this case. Confusion is less of a concern in a bench trial setting.

[¶39] At this stage, the court finds no basis to exclude the slides on authenticity grounds. The possibility that the slides were created or altered after Mr. Arjun's deposition is speculative and unsupported in Sapphire's motion. Any authenticity concerns can be explored through examination at trial.

[¶40] Subject to proper foundation, the slides are admissible. Sapphire's motion is **DENIED**.

Sapphire's Request to Exclude Email on Partner Contributions (Ex. F, ASC825)

[¶41] Sapphire asks the court to exclude an email regarding partner transactions. That email is bates-stamped ASC 825 and labeled Exhibit X in the joint pretrial memo and labeled Exhibit F in Altius's final exhibit list. Dated October 30, 2025, the email includes a table-style "transaction report" purporting to show that funds were "redeployed to Altius" in August 2025 by partners.

[¶42] Like the slides, Sapphire argues that this email should be excluded because it was produced past the discovery cut-off. *Pl.'s MIL* a*t 5.* Sapphire also contends the email is irrelevant because it discusses 2025 transactions, not 2024 transactions, and it may constitute hearsay. *Id.* at 5.

[¶43] Altius responds that the untimely production was harmless for the same reasons the late production of slides was harmless. *Defs.' Resp.to Pl.'s MIL* at 8–9. For Altius, the email is relevant because it rebuts claims about its financial health and business performance. *Id.* If Sapphire argues that the 2024 distributions to partners show positive business performance, Alitus argues it should be allowed to show that those distributions were returned in 2025. *Id.* at 9. Altius did not address the hearsay objection in its written response.

[¶44] For the same reasons described above, the late disclosure of this email was harmless.

[¶45] As for relevance, the email may have some tendency to make a fact of consequence more likely. Sapphire argues that partner distributions in 2024 demonstrate positive business performance; this email showing redeployment of funds in 2025 may provide context and potentially rebut that claim. The court will give that tendency its proper weight at trial.

[¶46] As for hearsay, the court reserves ruling on that objection. Whether the email is offered for the truth of the matter asserted or for another permissible purpose, and whether an applicable exception applies, can be determined at trial.

[¶47] The motion to exclude ASC 825 is **DENIED.** The email is relevant under W.R.E. 401. The court reserves ruling on whether the email constitutes hearsay and, if so, on whether an applicable exception applies.

Sapphire's Request to Exclude Self-Assessment Emails (Ex. A, ASC63; Ex. B, ASC11)

[¶48] Sapphire moves to exclude an email chain—bates stamped ASC11 and ASC63—identified as Exhibits D and B in the joint pretrial memorandum and as Exhibits B and A in Altius's final exhibit list. These emails reflect Altius's request

that Mr. Dutta complete a self-assessment by a stated deadline, warning that failure to do so would result in a grade of "not meeting expectation."

[¶49] Sapphire argues that the email chain is irrelevant because the PSA required management evaluations, not self-assessments. *Pl.'s MIL* at 5–6. Sapphire further contends that any probative value is substantially outweighed by unfair prejudice, confusion of the issues, and waste of time. *Id.* at 6. According to Sapphire, admission of these emails would improperly suggest that Sapphire was contractually obligated to complete self-assessments, confuse the issues by suggesting such an obligation existed, and waste trial time. *Id.* Sapphire also asserts that the emails constitute hearsay: out-of-court statements offered to prove whether Mr. Dutta performed a self-assessment evaluation. *Id.*

[¶50] In response, Altius accuses Sapphire of seeking to exclude prejudicial but relevant evidence. Altius argues that the emails are relevant and probative because the PSA conditioned bonus payments on Sapphire's performance, measured by criteria including "performance assessment." *Defs.' Resp. to Pl.'s MIL* at 9. Altius asserts that self-assessments were part of this process and that Sapphire was informed of this expectation. *Id.* In essence, Sapphire contends that Altius alone was responsible for conducting the performance evaluations, while Altius maintains that Sapphire was required to participate in the evaluation process.

[¶51] Resolving this dispute requires examining and establishing the meaning of the PSA's performance assessment provisions. The PSA sets forth a "performance-based compensation model" that relies, in part, on performance assessments. *Defs' R. 56.1 Stat.*, Ex. C. PSA, Annexure A, § 5. Under the model, "[m]anagement will conduct quarterly performance review[s] against baseline objectives" and will "rate the contractors." *Id.* at Ex. C, Annex. A, § 5.II.a. The PSA includes a "Performance Grading" table listing metrics such as revenue generation, client satisfaction, team engagement, delivery quality, utilization, and performance assessment. *Id.* at Ex. C, Annex. A, § 1.b. The PSA describes the "performance assessment" as occurring "during and post engagement, through informal and formal surveys," but does not specify survey respondents (i.e., clients, Sapphire, or both). *Id.* Depending on the court's ultimate interpretation of the performance evaluation provisions, evidence that Sapphire declined to complete self-assessments may bear on whether the contractual condition precedent of performance evaluation occurred and whether Altius administered the process in good faith.

[¶52] The probative value of the emails is not substantially outweighed by unfair prejudice, confusion, or waste of time. That the emails may be unfavorable to Sapphire does not render them unfairly prejudicial. In a bench trial, the risk of confusion is minimal. And the exhibits are limited in volume and length.

[¶53] The hearsay objection does not warrant exclusion at this stage. To the extent the emails are offered for the truth of the matter asserted, hearsay concerns may be addressed through the business-records exception upon an appropriate foundational showing under W.R.E. 803(6).

[¶54] Because (1) the emails are relevant, (2) their probative value is not substantially outweighed by any danger identified in W.R.E. 403, and (3) hearsay concerns may be addressed under W.R.E. 803(6), the court **DENIES** Sapphire's motion in limine to exclude ASC 11 and ASC 63. The court reserves ruling on the hearsay issue.

Sapphire's Request to Exclude Testimony on Alleged Comments by Mr. Dutta

[¶55] Sapphire seeks to exclude anticipated testimony from Mr. Arjun regarding reports he purportedly received from colleagues that Mr. Dutta allegedly used unprofessional language. Based on Mr. Arjun's deposition, Sapphire anticipates that Mr. Arjun will testify that a colleague reported that Mr. Dutta commented on a female colleague's financial ability to buy high-end dresswear. Sapphire further anticipates that Mr. Arjun may testify that he received reports that Mr. Dutta made a comment about the lack of team availability to a corporate controller.

[¶56] Sapphire asserts that these comments constitute impermissible hearsay: out-of-court statements made by Altius client representatives to Mr. Arjun about statements made by Mr. Dutta, offered to show that Mr. Dutta made those comments. *Pl.'s MIL* at 6–7.

[¶57] Altius did not directly address the hearsay objection in its written response. At the pretrial conference, however, counsel for Altius argued that the statements would not be offered for the truth of the matter asserted but to show why Mr. Dutta did not receive a meets-expectation rating.

[¶58] The anticipated testimony includes two layers of out-of-court statements: (1) the colleagues' statements to Mr. Arjun reporting that Mr. Dutta made certain comments, and (2) the content of Mr. Dutta's alleged remarks about a female colleague's ability to afford high-end dresswear and about team availability.

[¶59] The question is whether these two layers of out-of-court statements would be offered for the truth of the matter asserted. The first layer—the colleague's report that Mr. Dutta made these comments—is offered for the truth of the matter asserted: that Mr. Dutta made the statements. The second layer—the substance of Mr. Dutta's comments—is not offered for its truth. The colleague's dresswear and the team's availability are irrelevant and are not the anticipated purposes of the testimony.

[¶60] Altius argues that the testimony would be offered not to show the truth of Mr. Dutta's purported statements about dresswear or team availability but to show why Mr. Dutta did not meet expectations. Testimony recounting third-party reports that the comments were made and that those reports were relied upon in the evaluation process cannot be meaningfully separated from the proposition that Mr. Dutta made the comments in the first place. If allowed, such testimony would function as proof of the alleged conduct (Mr. Dutta made inappropriate comments) without the safeguards required by the Wyoming Rules of Evidence, including that testimony be subject to cross-examination and an oath.

[¶61] The court therefore concludes that the anticipated testimony constitutes hearsay. Because no applicable hearsay exception has been identified, Sapphire's motion to exclude Mr. Arjun's testimony about reports he received about Mr. Dutta's comments is **GRANTED**.

CONCLUSION

[¶62] To summarize, for the reasons stated above, the court rules as follows:

a. Altius's motion to exclude pre-suit settlement discussions (Ex. 4, SSA-000012-18) is granted. Exhibit SSA-000012-18 is excluded in full under W.R.E. 408.

b. Sapphire's motion to exclude operational meeting slides (Ex. D, ASC 860–865; Ex. E, ASC 866–875) is denied. Subject to proper foundation, the slides are admissible. The court reserves ruling on hearsay objections at trial.

c. Sapphire's motion to exclude the email on partner contributions (Ex. F, ASC 825) is denied. The court reserves ruling on hearsay objections at trial.

d. Sapphire's motion to exclude self-assessment emails (Exs. A &B, ASC 11, 63) is denied. The court reserves ruling on hearsay objections at trial.

e. Sapphire's motion to exclude anticipated testimony regarding alleged comments by Mr. Dutta is granted.

SO ORDERED

Dated: January 16, 2026

/s/ Benjamin M. Burningham
CHANCERY COURT JUDGE