

IN THE SUPREME COURT OF THE STATE OF NEVADA

CP CAPITALINE, INC., A NEVADA
CORPORATION,

Appellant,

vs.

MORGAN STANLEY DW INC., A
DELAWARE CORPORATION,

Respondent.

No. 42696

FILED

MAR 09 2005

JANETTE M BLOOM
CLERK OF SUPREME COURT
BY *J. Ribade*
CHIEF DEPUTY CLERK

ORDER PARTIALLY SEALING RECORD
AND DISMISSING APPEAL

Appellant has filed a motion to seal “the record on appeal” and to voluntarily dismiss this appeal. In support of the motion to seal the record, appellant states that the district court held “two hearings on the factual and legal issues in this case,” and “perceiv[ing] the possibility of annoyance or embarrassment to the parties” granted the parties’ request to seal the district court case.¹ Additionally, citing to NRAP 16(h), appellant notes that the docketing statement was submitted to the settlement judge as part of the settlement process, and therefore “should not be available for public inspection.”

A docketing statement must be prepared and filed in *every* appeal, including those assigned to the settlement conference program. Accordingly, we decline to accept appellant’s suggestion that under NRAP 16(h) a docketing statement is “not . . . available for public inspection” because it is “prepared by counsel in furtherance of a settlement

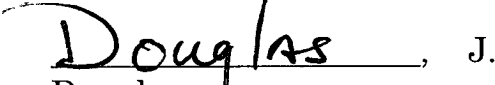
¹Attached to the motion is a district court order granting the parties’ request to seal the district court case.

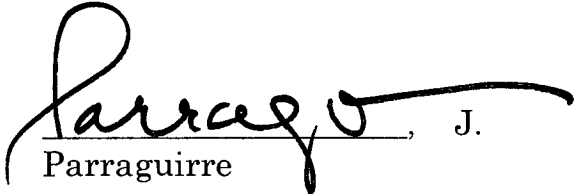
conference.”² Nevertheless, we note that attached to appellant’ docketing statement are copies of several documents from the district court record. Additionally, several of the answers provided in the statement contain summaries of evidence presented in the underlying action. The sealing of the docketing statement is thus appropriate pursuant to the district court order sealing the district court case. Accordingly, we grant the motion to seal the appellate court record, in part, and we direct the clerk of this court to seal the docketing statement filed by appellant on February 18, 2004.³

Cause further appearing, we grant appellant’s motion for a voluntary dismissal of this appeal. This appeal is dismissed. The parties shall bear their own costs and attorney fees. NRAP 42(b).

It is so ORDERED.


Maupin


Douglas


Parraguirre

²A docketing statement is filed to assist this court in identifying jurisdictional defects, scheduling cases for argument, classifying cases for expedited treatment and compiling statistical information, but is provided to the settlement judge for informational purposes only.

³Appellant’s three motions to extend time to file a motion for voluntary dismissal and motion for voluntary dismissal and to seal the record do not disclose any factual matters regarding the underlying action. Consequently, these documents are not subject to the district court’s order sealing the case.

cc: Hon. Kathy A. Hardcastle, District Judge
Janet Trost, Settlement Judge
Markoff & Boyers
Jones Vargas/Las Vegas
Clark County Clerk