

# **EXHIBIT 3**

**Case No. C 07 0943 WHA**

**Parrish v. National Football League Players Association, et al.**

# COPY

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1 \* \* \* HIGHLY CONFIDENTIAL \* \* \*

2 UNITED STATES DISTRICT COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 -----x  
BERNARD PAUL PARRISH, et al,

5 Plaintiffs,

6 -against-

7 NATIONAL FOOTBALL LEAGUE PLAYERS  
ASSOCIATION, et al,

8 Defendants,

**HIGHLY CONFIDENTIAL**

9 Case No.: C07 0943 WHA

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11  
12 399 Park Avenue  
13 New York, New York

14  
15 April 4, 2008  
12:41 p.m.

16  
17 Deposition of WARREN FRISS, pursuant to  
18 30(b)(6) Notice, before Sophie Nolan, a Notary  
19 Public of the State of New York.  
20  
21  
22

23 ELLEN GRAUER COURT REPORTING CO. LLC  
24 126 East 56th Street, Fifth Floor  
New York, New York 10022  
212-750-6434  
25 Ref: 87185B

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14     ALSO PRESENT:

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2           player that you were referring to in paragraph  
3           three of your declaration?

4           A.     Yes --

5                   MR. LeCLAIR:  Objection, leading.

6           A.     Yes, it is.

7           Q.     Okay.  Paragraph five entitled  
8           "Compensation," do you recall that Mr. LeClair  
9           had asked you some questions about the  
10          compensation paid, in this case, with respect  
11          to Roger Craig?

12          A.     Yes.

13          Q.     Okay.  It states in that paragraph,  
14          "As consideration for the grant of rights and  
15          services, Players, Inc. shall pay player  
16          \$5,000."

17                   Is that consistent with your  
18          understanding of what the consideration that  
19          Topps was paying was in exchange for?

20                   MR. LeCLAIR:  Objection, form and  
21          leading.

22          A.     I'm sorry, could you repeat the  
23          question?

24          Q.     Is it your understanding that Topps  
25          was paying \$5,000 for both a grant of rights

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2 and services for Mr. Craig?

3 MR. LeCLAIR: Objection, form,  
4 leading.

5 A. Yes.

6 Q. Do you know whether -- has Topps  
7 entered into similar individual designated  
8 deals with retired players?

9 A. Yes.

10 Q. And is it your understanding --  
11 what is your understanding as to whether those  
12 individual retired player deals contained grant  
13 of rights?

14 MR. LeCLAIR: Objection to form.

15 A. It's my understanding that they  
16 always include a grant of rights in addition to  
17 the grant of services.

18 Q. Okay. Does Topps do individual  
19 designated deals with active players?

20 A. Yes.

21 Q. What is your understanding as to  
22 whether those individually designated deals  
23 with active players contain a grant of rights?

24 A. It's my understanding that they do  
25 not.



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2 so.

3 Q. Okay. Turning back to your  
4 declaration, paragraph four, it says, "Thus,  
5 under the 2004 license agreement, Topps  
6 acquired the group licensing rights of active  
7 NFL players only."

8 Is that consistent with your  
9 understanding today?

10 A. Yes.

11 Q. And have you ever had a different  
12 understanding about the rights that were --  
13 that Topps acquired under the 2004 license  
14 agreement?

15 A. No.

16 Q. The next sentence states, "It was  
17 my belief that any consideration paid by Topps  
18 under the 2004 license agreement was not paid  
19 for the rights of retired players."

20 Is that statement consistent with  
21 your understanding today?

22 A. Yes.

23 MR. LeCLAIR: Objection, leading.

24 A. Yes.

25 Q. And has that always been your



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2 understanding?

3 MR. LeCLAIR: Objection, leading.

4 A. Yes.

5 Q. Okay. The next paragraph it says,  
6 "The pertinent language in paragraph 1-A of  
7 another license agreement entered into between  
8 the NFLPA and Topps with an effective date of  
9 March 1, 2007, a true and accurate copy of  
10 which is attached hereto as Exhibit D, is to  
11 the same effect as the 2004 license agreement."

12 Is that an accurate statement?

13 A. Yes.

14 Q. So your understanding is that  
15 paragraph 1-A from the 2004 agreement is the  
16 same as paragraph 1-A in the 2007 agreement?

17 A. Yes. Effectively, yes.

18 Q. Okay. Before this case, had you  
19 ever focused on the individual language, the  
20 specific words, in paragraph 1-A?

21 A. I don't recall if I specifically  
22 focused on that.

23 Q. The next sentence in paragraph six  
24 of your declaration states, "It was my belief  
25 that any consideration paid by Topps under the

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2 2007 license agreement was not paid for the  
3 rights of retired players."

4 Is that consistent with your  
5 understanding today?

6 MR. LeCLAIR: Objection, leading.

7 A. Yes.

8 Q. And is it your understanding today  
9 that under the 2007 license agreement Topps  
10 still needs to enter into individually  
11 negotiated deals with retired players or  
12 through Players, Inc. with respect to a  
13 particular retired player in order to obtain  
14 the rights to such a retired player?

15 MR. LeCLAIR: Objection, form and  
16 leading.

17 A. Yes. It's my understanding that we  
18 did not get those rights from the license  
19 agreement; that we had to do a separate  
20 agreement and make a separate payment for these  
21 rights.

22 Q. Is it Topps' understanding that  
23 Topps needs to pay additional money beyond  
24 what's provided for in the 2007 license  
25 agreement in order to attain the rights of

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2 retired players?

3           A.     Yes.

4                   MR. LeCLAIR:  Objection, form.

5           Q.     Mr. Friss, do you know how many  
6 retired players have signed a GLA?

7           A.     No.

8           Q.     Have you ever seen a retired player  
9 GLA form signed or unsigned?

10          A.     I don't believe I have.

11          Q.     So, do you know with respect to any  
12 particular retired player, whether that retired  
13 player has signed a GLA or not?

14          A.     No, I don't know.

15          Q.     We looked at an individually  
16 negotiated agreement with respect to Roger  
17 Craig.  Do you know whether Roger Craig has  
18 ever signed a GLA?

19          A.     No, I don't.

20          Q.     Do you know whether Roger Craig had  
21 signed a -- strike that.

22                   Do you know whether Roger Craig had  
23 a retired player GLA in effect at the time that  
24 you entered into the individually negotiated  
25 deal to acquire his rights?

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2                  A.    No, I don't.

3                  Q.    I don't have any other questions.

4  Thank you.

5  FURTHER EXAMINATION

6  BY MR. LeCLAIR:

7                  Q.    Mr. Friss, are you taking back  
8  anything you said in answer to my questions?

9                  A.    No, I'm not.

10                 Q.    You still believe your testimony in  
11  response to my questions was accurate?

12                 A.    Yes.

13                 Q.    Is it correct that Topps wanted to  
14  be sure that it had a grant of license from a  
15  retired player before it produced a card or did  
16  anything with respect to that retired player;  
17  correct?

18                 A.    We knew we needed to get rights.  
19  I'm not -- I'm not sure what you're -- I'm not  
20  sure what you mean being sure.

21                 Q.    In other words, when you responded  
22  to Mr. Greenspan's questions you said we had to  
23  get -- we had to get the rights from Players,  
24  Inc. for the retired players; correct?

25                 A.    Correct.

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2                   Q.     And the fact is you had no idea  
3 that Players, Inc. had already gotten rights  
4 from a large number of retired players because  
5 they didn't tell you that, did they?

6                   A.     I still don't know whether they  
7 have rights, so --

8                   Q.     So, in fact, if in 2004 and in 2007  
9 Players, Inc. had said, we've already got all  
10 of these rights, you would have been happy to  
11 get them granted in the license agreement;  
12 wouldn't you?

13                   MR. GREENSPAN:  Objection to form.

14                   A.     Yes.

15                   Q.     No further questions.

16                   FURTHER EXAMINATION

17                   BY MR. GREENSPAN:

18                   Q.     Was it Topps' intention to acquire  
19 the group licensing rights of retired players  
20 under the 2004 license agreement?

21                   A.     No.

22                   Q.     Was it Topps' intention to acquire  
23 the group licensing rights of retired players  
24 under the 2007 license agreement?

25                   A.     No.

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C E R T I F I C A T E

STATE OF NEW YORK )

)ss.:

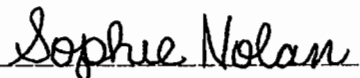
COUNTY OF NEW YORK )

I, SOPHIE NOLAN, a Notary Public  
within and for the State of New York, do  
hereby certify:

That WARREN FRISS, the witness  
whose deposition is herein before set  
forth, was duly sworn by me and that such  
deposition is a true record of the  
testimony given by such witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or marriage; and that I  
am in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 14th day of April, 2008.

  
SOPHIE NOLAN