

# EXHIBIT D

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN FRANCISCO DIVISION

3 BERNARD PAUL PARRISH, HERBERT  
4 ANTHONY ADDERLEY, WALTER  
5 ROBERTS III,

Case No. C 07 0943 WHA

5 Plaintiffs,

6 v.

FILED UNDER SEAL

7 NATIONAL FOOTBALL LEAGUE  
8 PLAYERS ASSOCIATION and NATIONAL  
9 FOOTBALL LEAGUE PLAYERS  
10 INCORPORATED d/b/a/ PLAYERS INC,

Defendants.

11 **DECLARATION OF WARREN FRISS**

12 I, Warren Friss, declare as follows:

13 1. I am Vice President and Entertainment General Manager of Topps  
14 Company, Inc. ("Topps") and have held that position since February 2005. From June 1991 to  
15 February 2005, I held the position of Vice President and Internet Business General Manager and  
16 from February 2000 to June 2001, I held the position of General Counsel. I joined Topps as  
17 Deputy General Counsel in May 1995. I am over twenty-one years of age, and I have personal  
18 knowledge of each of the facts stated herein. If called upon to testify, I could and would testify  
19 completely thereto.

20 **2004 License Agreement**

21  
22 2. Attached hereto as Exhibit A is a true and accurate copy of a License  
23 Agreement between Topps and the NFLPA with an effective date of March 1, 2004 ("2004  
24 License Agreement"). It was Topps' understanding that it did not by virtue of the 2004 License  
25 Agreement obtain the rights of any retired players. As to retired players, the player would have  
26 to individually designate his participation in a specific Topps program involving retired players  
27 for Topps to have his licensing rights.  
28

1                   3.       This type of individual license program for a retired player occurred, for  
2 example, in 2004 when Topps agreed to pay additional monies to obtain, on an individually  
3 negotiated basis, the group licensing rights of Roger Craig, a retired NFL player, for use in a  
4 Topps football trading card product. Topps entered into the same type of individually negotiated  
5 license arrangement at this time with Dick Anderson, another retired NFL player. A true and  
6 correct copy of the individually negotiated license agreements for Mr. Craig dated November 9,  
7 2004, and Mr. Anderson dated November 8, 2004, are attached hereto as Exhibits B and C,  
8 respectively.  
9

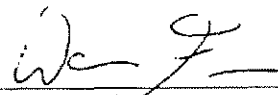
10                   4.       Thus, under the 2004 License Agreement, Topps acquired the group  
11 licensing rights of active NFL players only. It was my belief that any consideration paid by  
12 Topps under the 2004 License Agreement was not paid for the rights of retired players.  
13

14                   5.       The agreement was never intended by Topps to apply to retired NFL  
15 players.  
16

**2007 License Agreement**

17                   6.       The pertinent language in Paragraph 1(A) of another License Agreement  
18 entered into between the NFLPA and Topps with an effective date of March 1, 2007, a true and  
19 accurate copy of which is attached hereto as Exhibit D, is to the same effect as the 2004 License  
20 Agreement. It was my belief that any consideration paid by Topps under the 2007 License  
21 Agreement was not paid for the rights of retired players.  
22

23                   I declare under the penalty of perjury under the laws of the United States of  
24 America that the foregoing is true and correct and that this declaration was in executed in New  
25 York, New York on October 10, 2007.

26                     
27 Warren Friess  
28