

**SYMPOSIUM: SPORTS CARD TRADING AND
COLLECTIBLES**

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I. INTRODUCTION

The 2002 Sports Law Symposium was held “by a distinguished panel of industry representatives on the campus of Seton Hall Law School.”¹ Key topics of concern in the trading card collectibles industry that were discussed include licensing² and authentication.³ The stability of this industry rides on trust, so counterfeits are a real threat. The following excerpt of the symposium focuses on comments regarding the background and development of the industry and the key areas of concern for the future.

Symposium speakers include: Marty Appel, Sy Berger, Richard A. Berthelson, Esq., Phil Carter, Roland Glen (Rollie) Fingers, Mark Gatto, Esq., Keith David Goldfarb, Barry Halper, Joe Pecora, Esq., Jay Rosenstein, Howard Skall, and Brandon Steiner. Each speaker discussed the issues they felt were most pressing in the sports collectibles business. A question and answer session followed.

Marty Appel, the Symposium Moderator, is President of Marty Appel Public Relations in New York City, which specializes in the communications needs of sports, broadcast and publishing clients. He has been cited by the New York Times as one of the nation’s premier

1. The 2002 Sports Law Symposium, “Sports Card Trading & Collectibles,” was held on April 12, 2002 at Seton Hall Law School in Newark, New Jersey. The symposium was presented by Seton Hall University School of Law, the New Jersey State Bar Association and the New Jersey Institute for Continuing Legal Education.

2. Obtaining player’s permission to use their image and likeness on certain paraphernalia. See comments by keynote speaker, Sy Berger, *supra*.

3. Authentication of autographs and game-worn items is a burgeoning business that encompasses both third party authentication and witnessing. See comments by Brandon Steiner and Keith Goldfarb, *supra*.

authorities on Yankee history and is generally acknowledged as one of baseball's most informed historians. A former Yankee employee and television producer, Mr. Appel is the award-winning author of 16 books on baseball and countless magazine articles.

Mr. Sy Berger, the Keynote Speaker, is Vice President of Sports and Licensing at the Topps Company in New York City. Mr. Berger was originally hired on a temporary basis, more than 50 years later, he is known as the father of the modern-day baseball card.

Mr. Richard A. Berthelson is General Counsel to the National Football League Players Association (NFLPA) in Washington, D.C. and Director of the NFLPA Legal Department. He has represented the NFLPA and individual players in more than 300 grievance arbitrations, served as counsel for the NFLPA in National Labor Relations Board proceedings, advised players and agents for individual contract negotiations with NFL clubs, and participated in the negotiation and drafting of player group licensing agreements and special events contracts.

Mr. Roland Glen (Rollie) Fingers was inducted into the Baseball Hall of Fame in 1992. His 17-year pitching career, with 341 saves, epitomized the emergence of the modern-day relief ace. Mr. Fingers began his career as a starter but in 1972 switched to full-time reliever, winning 11 games in relief and saving 21 to lead the Oakland Athletics to their first-ever World Series appearance. In the decisive seventh game against the Reds, he worked out of a bases-loaded, one-out jam in the eighth inning to preserve the 3-2 victory and the championship.

Mr. Phil Carter is Director of Licensing in Sports for the Topps Company. His 25-year career includes extensive negotiations and licensing with players from various sports, including baseball, football, hockey and basketball.

Mr. Mark Gatto is Director of Player Licensing at the Topps Company, where he manages the company's sports licensing program and coordinates player appearances and autograph sessions.

Mr. Keith David Goldfarb is a hand writing examiner specializing in sports and historical memorabilia. He has provided expert analysis of questioned documents for organizations including ABC TV, Fox TV, ebay and the Federal Bureau of Investigation. He currently serves as an authentication advisor to several companies including Baseball Hall of Famer Rollie Fingers' Authentic Enterprises.

Mr. Barry Halper has worked to establish an incredible collection of sports memorabilia for the past 50 years. He is a Board Member of Real Legends, where he leads the team as memorabilia and auction advisor, supplier and contributing editorialist. Mr. Halper was a limited partner of

the New York Yankees for many years and was called to serve as Vice President and Director of Baseball Operations in 1992.

Mr. Joseph Pecora is an attorney in New Jersey and New York. He has been Assistant Corporate Counsel to the City of Newark, legal counsel to the Newark Housing Authority-Urban Renewal, and Corporate Counsel to the Borough of Roseland.

Mr. Joe Grippo is the licensing manager for Major League Baseball Properties.

Mr. Howard Skall is with Players, Inc., and is engaged in marketing NFL players.

Mr. Jay Rosenstein is President and CEO of AuthentiDate Sports in New York City, providing independent, third-party oversight for celebrity and athlete signings.

II. TRANSCRIPT

MR. BERSHAD: Good morning everybody. Welcome to Newark, . . . to the law school [and] welcome to our sports symposium. My name is Lawrence Bershad. [At this time,] I want to thank some of the people who are responsible and who helped us with these programs. I want to thank our students, our sports fellows, our Entertainment and Sports Law Society students, and our people from the Sports Law Journal. I [also] want to thank our panelists. They've all waived their \$10,000 appearance fees. They are actually donating them to the law school.

The Bar Association is a partner in this venture. We are the only law school program, I believe, that is an ICLE⁴ Bar Association program, and Mel Narol,⁵ on behalf of the Bar Association asked me to extend his greetings to you. Larry Marin, the Executive Director Of the Institute, and in particular Michael Weissberg, [have] worked with us in putting on these programs for the last 10 years. There's a friend of his, a childhood friend of his, named Lee Burg, who is an attorney and collector who attended our programs in the '80s, who helped in particular with this program. Lee played an enormous role in both helping us pick the topic and getting some of our speakers, and I want to acknowledge his help. Last, but assuredly not least, on people to thank before I go any further, are the people in the

4. ICLE stands for the Institute for Continuing Legal Education.

5. It is with great sadness that we acknowledge the passing of Mr. Mel Narol on June 3, 2002. Mr. Narol was considered a national authority on sports law. He published more than 200 articles on the subject. He drafted model legislation that made it a serious criminal penalty to assault sports officials. Mr. Narol served on the editorial board of Seton Hall Sports Law Journal and instituted the annual Seton Hall Law Symposium on Sports Law.

Law School themselves, the administration. We have wonderful support from our Dean Pat Hobbs and from our Associate Dean, our Academic Dean, Kathy Boozang. So before I go further, I'd like to introduce to you the Academic Dean, Kathleen Boozang, who would like to extend a welcome to you here today. Thank you.

MS. BOOZANG: Good morning. Welcome to Seton Hall. Today's program represents the best of what any Law School should be. It is the collaboration of industry, the Bench, the Bar, and our faculty and students. So I thank all of you for being here and I want to especially note the extraordinary program, welcome to all of our speakers, and it is a few professors that can bring together such an amazing group of people and it is a tribute to Larry's career, his dedication to the enterprise of the law. Growing the law, his dedication to students, both when they're at the Law School and thereafter and their obvious dedication to him, that he is able to every year assemble this kind of program, so I thank you very much and I give you the best wishes for luck and provocative discussion through the day, so welcome.

MR. BERSHAD: Thanks Kathy. So the way we're going to do this, is that I'm going to introduce one of our Sports Fellows to introduce the moderator, who will introduce the keynoter and then each of the members of the panel will speak for a few minutes on the questions that most concern them about the future of the industry.

Having just read about this collectible of Luis Gonzales's chewing gum⁶ in the newspaper in the last two days, and as somebody who's not part of this industry, I don't have the foggiest idea what a serious question is after having read this every day for the last week. Evidently this fellow throws out chewing gum for the Diamondbacks (we don't mention the Diamondbacks too often in New York) and he throws out chewing gum and people run around picking up his chewing gum and it has now become a controversial collectible.

I'd like to introduce to you now Andres Lopez, one of our Sports Fellows. Andres is terrific and he is going to introduce Marty Appel who will introduce our keynote speaker. Thanks very much.

MR. LOPEZ: Thank you for the kind words professor. I'm here to

6. A piece of gum chewed by baseball player Luis Gonzales, an outfielder for the Arizona Diamondbacks, was auctioned off for \$10,000.00. *Baseball gum fetches \$10,000*, (April 16, 2002), at http://news.bbc.co.uk/sport1/hi/funny_old_game/1933382.stm (last visited Dec. 4, 2002).

introduce Marty Appel, noted author and baseball historian; he has been named one of the premier authorities in Yankee history, by the New York Times. He's also one of the most informed baseball historian's; he's got a private collection of about 2000 volumes and it's the largest, or one of the largest in the country. He's a veteran of 32 years in communications, public relations, and writing. His accomplishments include an Emmy award, a gold record, and award-winning Boones [Phonetic]. His latest book is an autobiography entitled, *Now Pitching for the Yankees*,⁷ and this book was named "Best New York Baseball Book of 2001" by ESPN. He's written 16 books on baseball, as well as countless magazine articles on the sport. The subjects that he's written about have included Yogi Berra,⁸ Joe DiMaggio,⁹ and the first baseball superstar, 19th century player, Mike Kelley¹⁰. Mr. Appel worked for the Yankee's Public Relations Department for about ten years. From 1974-1977, he was the Public Relations Director. Now he's the youngest person ever to hold this post in major league history. Other professional endeavors have included Director of Public Relations as well as Yankee's Executive Producer for WPIX and he been also Director for the Atlanta Olympic Committee in the Topps Company and he's a collaborator on the flag they hang in Cooperstown. For the past four years, he has been President of Marty Appel Public Relations, where he handles Public Relations for the Commissioner's Office, Yogi Berra, the Yogi Berra Museum, as well as a number of non-sports related entities. With that, please help me welcome our moderator today, Mr. Marty Appel.

MR. APPEL: Thank You Andres. Good morning everyone. We're going to have a little fun today, in addition to the seriousness of the topics, but let's remember it is first and foremost the world of sports. It's supposed to be entertaining. It is our national pastime. And there are certainly elements of sports collectibles that I think, at some point, we all just step back and say, 30, 40 years from now, are we all going to be scratching our heads and saying what were we thinking. It's a fascinating

7. Martin Appel, Yogi Berra and Marty Appel, *Now Pitching for the Yankees: Spinning the News for Mickey, Billy, and George*, Total Sports, 2001.

8. The official Yogi Berra website, available at <http://www.yogi-berra.com/> (last visited Dec. 4, 2002).

9. Joe Dimaggio is a well-recognized baseball player. A synopsis of his accomplishments can be found on the National Baseball Hall of Fame website, available at http://www.baseballhalloffame.org/hofers_and_honorees/hofer_bios/dimaggio_joe.htm (last visited Dec. 4, 2002).

10. Baseball statistics on Michael Kelley are available at <http://www.baseball-reference.com/k/kellemi01.shtml> (last visited Dec. 4, 2002).

topic because each of us, with the possible exception of Rollie Fingers, spent their childhood collecting one thing or another, being big fans. The players tended not to be such collectors and fans; they were out there playing and on their way to professional greatness on the field. I don't know if anybody saw this morning's USA Today, but while we were sitting here in Newark, a Florida man stumbled upon a gold mine in his attic, 348 baseball cards from 1909-1911, estimated value more than \$100,000.00.¹¹ So there are still finds to be made out there and why are we here when we should be rummaging through our attics. My own research as Andres mentioned, a book that I had done on Mike Kelley,¹² who was actually baseball's first matinee idol. He played in the 1880s and 1890s and there was a lot about him that almost marked the birth of sports collectibles, sports celebrities. He was the game's first marquee player, at a time when there was a salary cap, when no player could make more than \$2,500.00 a year, Kelley was sold from Chicago to Boston in 1886, and given a salary of \$5,000.00 to play for Boston. Now, how did they get around the salary cap? They gave him \$2,500.00 and an additional \$2,500.00 to be able to use his photograph, his image on billboards advertising upcoming games. Well obviously, they could have used it anyway but that was like the first instance of a player beating the salary cap and marketing his name for commercial gain. Kelley also was the source of a ch, "Slide Kelley, Slide", which was the first pop hit record on the billboards chart after Edison patented his phonograph. He was the subject of an oil painting of him sliding into second base, which hung in every saloon in Boston. They took down "Custer's Last Stand", and they put up "Slide Kelley, Slide". And most interestingly, I'm not talking sports now; I'm talking everything -he created the concept of the autograph, of people going after someone and saying, "Hey, can I please have your autograph"? In some cases, they don't say please. But prior to Kelley, people knew that there was value in having a George Washington signature or an Abraham Lincoln signature, but nobody pursued celebrities, few though that they were, for autographs. With Kelley's arrival in Boston, it was the first time that people, mostly kids, armed with pencils, would run after somebody and ask for an autograph. Now very few of these survived because they were mostly done in pencil on little scraps of paper. But the whole concept of autographing really traces itself to that time. When I did the book and came upon this, I did confirm it

11. Ross Forman, *Found cards worth \$100,000*, USA TODAY, Apr. 12, 2001

12. Martin Appel, Marty Appel, Lawrence S. Ritter, *Slide, Kelly, Slide: The Wild Life and Times of Mike "King" Kelly, Baseball's First Superstar*, The Scarecrow Press, 1999.

with the late Charles Hamilton, who was a noted autograph authority in New York, who did confirm that it did sound correct to him that it would have begun with Kelley. So that was his contribution to it. We fast-forward about 80 years to the first year that I worked for the Yankees, 1968; Mickey Mantle¹³ was still playing for the team then, in fact my first responsibility was sort of managing his fan mail which would come in by the hundreds each day. And I used to make sure to save up a few letters so I could spend some quality time with Mick, his locker and I remember one day, now remember he didn't retire, he didn't announce his retirement until spring training of 69. But here we were in August of 68 and he took out a shoebox [from] his locker and a pair of new spikes and bent them in half and got some maneuverability out of them and he said, "Well, this will be my last pair of shoes", which was a remarkable thing to say and you know, I didn't equate it to retirement because I didn't know whether a pair could last on into the next year or not, but with that he took his existing pair and just flipped them into the garbage can about five feet away. Now this was clearly before the age of collectibles, otherwise everybody would have been leaping into that garbage can to get Mickey's last pair of shoes. So that was when I came into professional sports, in 1968 at a time when people were not quite thinking the way they do today about collectibles and about values of things. But by 1968, our keynote speaker was already well into his career at Topps¹⁴. He had graduated from Bucknell and came to work after the war for the Topps Company, which was until then, pretty much known as a chewing gum company and then bubble gum, Bazooka. And the Shorin brothers who owned and operated Topps said, "Well, maybe we could sell more gum if we include little picture cards in there", and they brought in young Sy Berger to say "Sy, how about looking into this and seeing what we could do", and to tell you where it went from there, a man who some day should be immortalized in the nation's Capital with a statue for creating the modern day trading card, an important part of America's cultural history. Let me introduce to you, Sy Berger.

MR. BERGER: Thank you Marty. You're my hero. I can remember you when you came to the Yankees right out of college sitting there forcing Mickey's signature. Well, it's a pleasure to be here and I feel very

13. The official Mickey Mantle website, available at <http://www.baseball-reference.com/k/kellemi01.shtml> (last visited Dec. 4, 2002).

14. The company's official name is The Topps Company, Inc. More information is available at the company's website at <http://www.topps.com/> (last visited Dec. 4, 2002). See also Hal Bock, *Topps Cards Celebrates 50th Birthday*, THE MORNING NEWS, Dec. 12, 2000 at 58.

humble being a “keynote” speaker. To start with the gum that Dr. Bershad mentioned was Bazooka because all the ball players chew Bazooka bubble gum. We’ve supplied it to them since 1952, all they want. It’s nice to be here to tell you a little about what I experienced in the field of licensing. It’s a word I never heard of growing up or as I entered the business field in the early years.

I came to Topps in 1947, after a short career as an assistant buyer at a department store in New York and after graduating college, getting married to my sweetheart at 17. I did many, many things with Topps since I came in to run a promotion, but the real story with getting into baseball and sports was a growing situation. In 1950, at that time, all Topps was making was Topps change maker chewing gum and it wasn’t doing that well because of competition from Wrigley’s and American Chiclet and Beechnut. After the war we were forced into, really not forced, we had to do it, we started making Bazooka bubblegum, which overtook the bubblegum field. And during that period when Bazooka was first made, we put out a few little novelty items and that’s where licensing should have come in, but it didn’t. We put out a product called Hocus-Focus, where you wet a piece of chemically treated board and out came a beautiful picture, and who were the subjects. We had presidents, authors, athletes from all the sports and we never asked anybody for their rights to do it, we just did it and nobody ever said a word and this went on with a few other products, one of them was called Varsity. I gave the company a big list of professional football players and on these little cards, we had the players pictures and on the back we had his college pendants. We didn’t ask the colleges and players to license their names and we didn’t ask the people pictured. No licensing.

In 1950, it was the first time I saw anything that had to do with licensing, only we did not call it licensing, we called it ‘making a deal.’ It was Hop-a-long Cassidy and we went bananas. We never had a product that sold like that. We got machinery to pack the cards. It was just the thing to do and we never thought much, other than the cost of going into big contracts with the Hop-a-long Cassidy people. We went to them and we got their name and I remember it was a lease on one sheet of paper double-spaced. In fact, when we said we wanted to print Hop-a-long Cassidy’s picture on cards, so be it. All of a sudden, we found some guy from England who knew how to make lollipops and put together a beautiful box like a cartwheel with the holes in it at the end of the spokes and a lollipop would show. It was a big box about 12” X 12” and all of a sudden we were in the lollipop business using Hop-a-long Cassidy’s name. They didn’t complain and they weren’t getting the royalty. There was no

such thing as a royalty at that time. They got a flat fee.

But the next thing came along. Frank Buck [Phonetic] brought them back alive and they asked for a “piece of the action”, a percentage and I remember it was a 4% deal. Cards sold, not like Hop-a-long Cassidy, but they sold, but still it was a deal.

Shortly thereafter, we wanted to go into baseball. The real story is there was a company called Bowman Gum Company in Philadelphia and they put out baseball and football cards and we found that they had contracts with the players. In football, they had a contract with the budding National Football League and we figured out that they were doing \$3 million in business, and in those days that was a lot of money, and somehow we just couldn't get the rights. All of a sudden rights became an important thing and I would say that was the beginning of licensing. Bowman was getting their rights by using a public relations agency and he had a crew. They took it upon themselves to get all the rights from the major league players and we were sitting there trying to figure out what to do and Mr. Shorin, J.E. Shorin, the youngest of the Shorin brothers, an absolute genius and one of the greatest people I've ever known in this world, just an absolute great boss, brilliant. He got together with a couple of others and they set up a Company called Players Enterprises and they went out to sign players and they got a few players, but those that did sign had an exemption on their contract. We just kept working and we put out a small baseball product in 1951 and I went down to Philadelphia to see Mr. Arthur Ehlers, who was the General Manager of The Philadelphia A's. [I] asked him if I could get the rights to a series of star players called the Connie Mack All-Stars.¹⁵ I was sitting with a fellow who came in, a very pretty gruff guy and he says, “What are you doing here kid?” with a cigar in his mouth and I told him what I was doing and he says, “Oh that, you know there's a guy in Philadelphia, he really gave us a bad time. He gave us 100 bucks, he was supposed to give us 100 bucks, anyway and he printed our pictures. Well he printed some stamps of us, but he never gave us the money and therefore we really didn't have to pay because it said only he exercised an option.” Exercise an option was a new phrase to me and the fellow is Jimmy Dykes, the Manager of the Philadelphia A's. Through the conversation, he led me to a fellow who had, believe it or not, contracts with all the players to print their pictures, just like Mr. Flynn did, but Mr. Flynn's contracts said exclusive and this just said print pictures. I brought back a copy of that contract, showed it to Mr. Shorin and said, “If

15. See www.oldbaseball.com/refs/51cmas.html for a listing of the 1951 Connie Mack All-Stars (last visited Feb. 3, 2003).

we've got the nerve to take on a lawsuit, I think we're in business." He looked at me, hugged me and kissed me, he says, "We're in business". And that led to the first, the 1952 baseball card.

I think I did what anybody who collected cards as a boy had done. There were things that they had when I was collecting cards in the 30's, the cards were small, they weren't in color or anything and I suggested, "Why don't we use team logos", and I got the fellow, Woody Gillman, his name was, who was really a collector. In fact, I never saw one like him. When I wanted to give my wife a Valentine Card, he says, I got an idea, come to my basement and he gave me a card that was 100-years-old, made in England. He collected everything, this guy. At any rate, he was an artist and he sat down and I says, "Well let's have a logo coming out of a signature." So we had a logo, now we had a signature. On the back we had it set in sections and we put line statistics on it. No one ever put that on a baseball card and. . . instead of putting the year, I put life and above it year, just in case we couldn't sell these cards, I could sell them next year.

Nevertheless, we had a tremendous sale. We knocked Bowman's cards out of the game and suddenly we were #1 and that brought on a lawsuit. A lawsuit that went on for a few years and we won in the lower court. The judge, there was no jury, the judge said that no ballplayer would give exclusive rights for only \$100.00 and we suffered though the case which went through the Court of Appeals, and I guess you people who are students have heard this case, *Haelan Laboratories, vs. Topps*.¹⁶ And I have here what was written in the Court of Appeals and by Judge Frank.¹⁷ He says here, "A majority of this court rejects the. . . contention, we think that in addition to an independent in that right of privacy," which in New York derives from a statute, "A man has the right in the publicity value of his photograph, the right to grant the exclusive privilege of publishing his picture and such a grant may validly be made in gross."¹⁸ [Judge Frank further stated what Mr. Berger refers to as the real essence of the concept of licensing].

"Without an accompanying transfer of a business or anything else, whether it be labeled a property right is immaterial; for here as often elsewhere, the tag 'property' simply symbolizes the fact that courts enforce a claim which has pecuniary worth. This right might be called a 'right of publicity.' For it is common knowledge that many prominent persons (especially actors and ball-players), far from having their feelings

16. *Haelan Laboratories, Inc. v. Topps Chewing Gum, Inc.*, 202 F.2d 866 (2d Cir. 1953), cert. denied 346 U.S. 816 (1953).

17. 202 F.2d 866, 868-69.

18. *Id.* at 868.

bruised through public exposure of their likenesses, would feel sorely deprived if they no longer received money for authorizing advertisements, popularizing their countenances, displayed in newspapers, magazines, busses, trains and subways. This right of publicity would usually yield them no money unless it could be made the subject of an exclusive grant which barred any other advertiser from using their pictures.”¹⁹

Also, in those early days, Bowman had it “right”, they had football rights and Topps won these football rights when we won the battle in the market and bought them out in the end of 1955, beginning in 1956 and at that time, they had a contract with the National Football League and Bert Bell was the commissioner. He was one of the dearest men I’ve ever known. And in the contract, it said if the management changed, the contract became null and void and Mr. Shorin said to me, “Stay away from it, kid.” “We’ll put it out and if they want it then we’ll pay them money”. At any rate, I couldn’t stay away, being a football fan; I went down to visit with Mr. Bert Bell, I cherish my experiences with him to this day, and he said to me, “Kid, I don’t want, I don’t need money, I’m not looking for money, kid.” I says, “What are you looking for?” He says, “Publicity, being the public should know what we’re doing, publicity” and I says, “Well I can give you publicity with the young kids”, and we made a deal for very little money, but for each 250,000 or half a million cards, he would get X percent and as we sold more, the percentage would get less, so that he got his publicity. Dick Berthelson reminded me, I was the one who said to Bert Bell, “If you don’t want money when the players pictures are being used, you don’t have a pension fund, why don’t you give it to the players?” And that was the beginning of the Bert Bell Fund. Well, this went on and Topps had rights to everyone in football and baseball, but hockey was another situation.

Hockey had a company called Park Hurst [Phonetic] and I found out that Park Hurst was paying the two Canadian teams, it was Toronto and Montreal; \$5,000.00, they were paying the Boston Bruins, the New York Rangers and the Chicago Blackhawks \$200.00 and the Detroit Redwings \$100.00. Well with that knowledge, I went to the four American teams and got the exclusive rights for \$5,000.00 each and ultimately, we forced out Park Hurst because they couldn’t sell the product with only two teams.

And when it came to basketball, basketball had a licensing program too, but it was run by a fellow named Larry Fleischer. He worked as a representative for the players and he worked for the NBA. It was the strangest sort of situation I’ve ever seen, but they too had licensing. As

19. *Id.*

[time] went on, I was shifted over to the entertainment business cards, where I've had to deal with the Hollywood people and all of this, . . . and then came the era of the player's associations. In fact, I have to tell you, Topps used the emblems of major league baseball for eighteen years free of charge. We got the rights from the clubs and they were only too happy to have us use their emblems.. It just went on, the business grew up, the licensing business grew up and because of it, the lawyers came in. [Over time] Topps became a multi-confectionary company. We made cards, stickers, lollipops, bubblegum and anything else we could put a name on and that's the way we went to get licenses and with each, there was a percentage, you could only produce so much, no, we're giving rights to this to another person and here it was, as a result of all this legalistic shenanigans, we had to really worry what products we were doing and how much we could derive from them, rather than just throwing them against the wall and saying "Hey, whatever we sell, we sell." And that is one of the problems, I think, today in that there are very few, in sports, in particular, there are very few [if any] exclusive contracts with the players associations. The market can't absorb the amount of merchandise that we are producing, and we are producing so much merchandise because the guarantees are so big and it becomes a vicious cycle and I'm sure these are among the things that you people will be listening to from these fine gentlemen who each has . . . [a role] in the licensing business. If today, Topps enjoys being number one and has been without question, number one ever since 1952 and the production of baseball, football cards, and then we have basketball and hockey and the business has grown and grown and grown. I'm retired now, I'm associated with the company 55 years; maybe I'll get another year or two in, I don't know. Thank you for listening.

MR. APPEL: Now we've got 11 speakers. You'll hear from each person for about five minutes, their own roots in the industry, how they got interested in collectibles and maybe they weren't, maybe they just found a job and landed in the industry. What they're doing today, what their position is, what they see as the issues. Richard Berthelson, we'd like to start with you if you would and we'll turn over to you.

MR. BERTHELSON: Thank you for inviting me here today. It was fun to talk to Sy earlier today and to hear his remarks. I don't go back quite as far. I never met Bert Bell. I go back to Pete Roselle. He was commissioner when I started and like Larry, this is the year of my 30th anniversary in professional sports. I took a job in 1972 with the NFL

Players Association and Ed Garvey was the Executive Director at the time. There were two secretaries in the office. I got to my desk on May 15, 1972 and Ed had put down on a list of paper seven things that constituted my job description. Of course, the first thing was to be a lawyer. That's what I had been trying to do. I had been practicing for three years, but also on the list was one word, licensing. What is licensing all about in this business? Well that was one of seven things I was responsible for. We had this case that I had to work on, where the guys who played prior to 1959, we called them the pre-59ers, sued everybody, the league and the Players Association and said you started the pension in 1960; you didn't include us; you should have because Bert Bell promised that we would be involved in that. It was when I did research on the case that I found out that the Topps trading card license had originally been one that was made by the league on behalf of the players. The players weren't really involved; the league was getting the revenue and that revenue became the starting revenue for the player's pension plan. Now fortunately for me, that changed later and the Players Association took over the trading card licenses that we had and the owners put in the money for the players pension plan. I say it is fortunate for me because that's part of where my salary has come from. In fact, I probably owe it to Sy [Berger] that a good portion of the salary I've been paid over the years has come out of the licensing revenues and trading cards. I think when I started, revenues with Topps probably represented almost half, if not more, of our total licensing revenue, and this is the money that we used and needed very desperately to run the union. In fact, I can remember a time in 1982, when we were on strike; the owner's were making it tough for us. We were running out of money, and of course, who do we go to but Sy Berger in Topps, and [tell him that] we need some money. They were always accommodating, saying, "Well sign here, we'll extend the licensing contract to a few more years and we'll give you some cash up front".

Now we've got a licensing entity called Players, Inc. and Howard Skall behind me works for Players, Inc. We've got an entire licensing department with 30-40 people and I'm not saying to you that I did the work of 30-40 people . . . but [merely indicating to you] the enormous growth in this industry of trading cards and collectibles. As our licensing department grew of course I did less and less over the years, but I can say the most crucial period in our history was between 1987-1993. When we first went on strike, they put replacements on the field; we went back to work without a new collective bargaining agreement. We sued the owners in antitrust court, instead and had an initial victory and then lost at the appellate level and had to decertify as a union and go back at them in

court. We finally won, but this took six years and it took about \$20 million to pay the lawyers to wage this fight for us as the players continued to play. And were it not for the licensing, were it not for the significant increases in trading card revenues, in particular in the late 1980s and early '90s, we couldn't have ever one that battle. We couldn't have gotten to the point where we did in 1993 where we settled on a new system, where we had free agency for the first time in our history, but guaranteed percentage of the gross revenues and a system that seems to be working for everybody. We're now in our, basically our 10th year of that agreement, and who'd have ever have thought that we could have peace for 10 years after all those battles. So, it's been a significant part of my life.

A recent case that I've encountered and had to deal with somewhat involves something I don't think any one of us would have ever expected to deal with regarding trading cards, and that is the class-action law firms out there who look for ideas to file lawsuits about, and then look for plaintiffs to put on suits. There is a law firm that challenged the way in which some trading cards now are marketed. The firm called it, I think, "chase cards," in that you buy a pack of cards perhaps on the chance that you get a valuable card in the packet. Well, since we licensed that, since Topps makes such a card, since the league licenses it, we're all joined as defendants in a lawsuit, a class-action lawsuit, which contends that that violates state anti-gambling laws in California.²⁰ We are corrupting our nation's youth in California by getting them to buy trading cards on the chance that something good will be in the packet, and of course they're all destined to go to Las Vegas and spend all of their life savings eventually, because we're putting them into this predicament. Lawsuits of this nature have been filed in various places. But I thought it was very, very ironic that the trading cards that we would collect as kids, now are in the category of corrupting our nation's youth by enticing them to gamble by buying these cards. But that's the most recent issue that I've dealt with.

MR. APPEL: Thank you Richard. Well from football to baseball, Joe Grippo, formerly a colleague at Topps, now working with Major League Baseball Properties. Joe.

JOE GRIPPO: Thank you Marty. First of all, I'd like to thank Seton

20. See *Schwartz v. Upper Deck Co.*, 104 F. Supp. 2d 1228 (S.D.Cal. 2000); *Dumas v. Major League Baseball Properties, Inc.*, 104 F. Supp. 2d 1220 (S.D.Cal. 2000); *Rodriguez v. Topps Co.*, 104 F. Supp. 2d 1224 (S.D.Cal. 2000). The dismissal of all three cases for lack of standing was recently affirmed. *Chaset v. Fleer/Skybox Int'l*, 300 F.3d 1083 (9th Cir. 2002)

Hall and Larry as well, for having me here today. It's really an honor to be on this panel. I'm currently the Licensing Manager for Major League Baseball Properties. I've been with Major League Baseball for the last three years licensing collectible and memorabilia companies and prior to that, as Marty mentioned, I was with Topps Company for about eight years. I have the privilege today of sitting next to the gentleman who hired me straight out of college, Phil Carter. I'll never forget that interview actually. At one point, Phil had asked me if I collected cards and I'm thinking to myself, is this a trick question, how am I going to answer this question? And I just answered it honestly, and I said I've certainly collected cards in my life, but I wouldn't consider myself a card collector because it wasn't about collecting the cards so much as it was the association with the players that was really important to me. I guess it worked, Phil hired me and I am forever grateful for that.

I've had the good fortune now of being on both sides, as a licensor with Major League Baseball Properties and a licensee with Topps and it's been a great experience. The issues that I see in this sports collectible industry, . . . speaking on behalf of Major League Properties, is gaining the consumer confidence in not only the industry, but in the companies that also work in this industry. There are some good people in this industry, some of them here in this room right now. Steiner Sports, the Topps Company as well, are legitimate companies, and we need to promote these companies and other legitimate companies to the public so that they know that there is a legitimate industry out here. It's not just about the bad press, whether it be about this gentleman who picked up the gum from Luis Gonzales or perhaps one of the players who stole Derek Jeter's²¹ glove. We get a lot of negative messages from the press, but it is really a great industry in the fact that it gives the sports fan the opportunity to gain that association with the player, whether it be by a trading card or by an autograph or a photo, an autographed bat, or something. So promoting that consumer confidence is certainly one of the main issues or one of the main strategies at [Major League] Baseball.

We're also forever working to fight the frauds and the forgeries that exist. We work hand in hand with the FBI on a daily basis. MLB security is made up of 50 people throughout the country, former law-enforcement agents, police commissioners, police chiefs, FBI agents, CIA agents. They're all working to put one of these guys behind bars or out of business. And that will always be a goal for Major League Baseball.

21. Derek Jeter currently plays baseball for the New York Yankees. More information on Jeter is available at <http://sports.espn.go.com/mlb/players/profile?statsId=5406> (last visited Dec. 4, 2002).

Another issue that we're working with is trying to establish an industry-wide standard for authenticating autographs and game-used items and there are some gentlemen in this room today that are actively working on this as well. It's very important to us and we started an authentication program about a little over a year ago, where the key to it is an independent third party that actually authenticates the item that has no interest in the buy or sell. Thank you very much.

MR. APPEL: Howard Skall, University of Maryland graduate. Congratulations on the NCAA championship, except he's working in football now, not basketball.

MR. SKALL: Well, we went to the Orange Bowl too. I'd like to think everybody associated with the symposium for having me here today. I had the privilege of working with some of the people here on the panel. . . . I was hired by Players, Inc. when Players, Inc. formed in 1995, I'd come from working for the union, the NFL Players Association, for a few years, and I was hired to start up the Player Marketing Department within Players, Inc. That basically represented going out and marketing NFL players through paid opportunities, non-paid opportunities, going out and getting endorsement deals, appearances and things of that nature. Part of that responsibility is working with Players Inc. licensees of which we have trading card licensees, apparel licensees, video game licensees, in helping them market their product. And when we started back in 1995, I don't think I'd even heard the words, autographed trading card insert . . . so correct me if I'm wrong, I don't know if it existed in baseball at that time. I'm pretty sure in football, even in 1995, none of our licensees had started yet basically inserting cards into their products, but within a few years, we started getting requests from our licensees to facilitate deals with the players to put their autographs in their licensed products. Within the last five years, it's basically exploded. Where we had a few thousand cards back in 1996-1997, we've done deals the past two years, which have put approximately one million autographs in license trading cards each of the last two years. That's also represented payments to players of about \$12 million each year, so it's obviously within five years turned into a \$12 million industry as far as autograph trading cards. We've had to address some internal questions on where we are going with the autograph trading card. We address it internally; we've done so with some of our licensees including Topps and our other trading card licensees as far as when, at what point are there too many autographs. You know obviously part of collectability, part of autographs is scarcity and you're talking about an

industry now where there were, in the last two years, a million autographs in the marketplace. Now if the consumer is still demanding it, do you continue to give him that number or do you reduce that number? Those are questions that as a licensor we've discussed and also brought up with our licensees.

Another issue that we brought up is cost. Player's Inc.'s overall concern is that we represent 1800 NFL players, but we don't represent any one player. So the way Player's Inc. makes money is, we own the exclusive group licensing rights of the NFL players and we make royalties off of the sale of products, such as Topps trading cards. Those which both do and don't contain trading card inserts, so while we negotiate, while we serve as the middleman to negotiate the deals with each player, it's not in our best interest necessarily to see one player making more money. We're concerned about the overall category in the overall industry because the money that Player's Inc. brings in goes to support many things, including a lot of what the NFL Players Association does, and that's the most important thing to the players. So, we've come to the point now where, in a lot of cases, on the secondary marketplace, you know, via dealers via the Internet, you see trading card values which are actually less than what the players are being paid to sign the card in the first place. That's obviously an issue that the trading card companies have addressed with us, and one that we have tried to address internally. We focus on questions, you know, whose responsibility is it to try to control those prices? Is it ours as a licensor? Is it the players to try to understand the overall industry? Is it up to the trading cards company, when a player is asking for too much money, to just basically walk away and say no to that deal, even if it's somebody that the consumer demands. So there's a lot of questions that we've tried to address in that area. With that also, we've talked about the number of players being used in autographs. Rookies are probably one of the hottest items from a collectability standpoint, at least with football cards. And with the autographs, you are providing two very collectible things, autographs and rookies, so we've come to the point where many times you have a majority of these thousands of autographs being signed by a very few number of players, and in a typical business model you would think it would work where, if a player's signing more autographs, he's going to bump down his price per card. But, what we've seen happen is it's actually worked the opposite, that players have been asked to sign so many autographs, especially football players, having one day off at the end of the week, you know it's basically a year round job now. Their time is very precious to them and almost as the volume has gone up, they've kind of had the prices go up. It's kind of worked backwards to what you would

think, so it's something else that we've tried to address. As far as the number of players, the number of autographs and really issues along those lines, are what I see as important to discuss moving forward in the industry. Thank you.

MR. APPEL: Thank you Howard. You know Sy mentioned about the proliferation of products and there's so much out there. When I was a kid, and Mickey Mantle was my favorite player, we would collect Mickey Mantle's card every year and at the end of his career, there were 18 Mickey Mantle cards. Evan, correct me if I'm wrong here, but I think representative of what the industry has become now, I think there were about 5000 Ken Griffey, Jr.²² cards out there since the time he broke into baseball in 1989, so it gives you the idea of the problem as well as the demand, but somewhere there is something out of balance there and certainly it's very hard to be a Ken Griffey Jr. fan and collect all of the cards that are associated with him. Now let's go to Jay Rosenstein who is a former Vice-President of CBS Sports and has now brought his talents into the collectibles industry as the President and CEO of AuthentiDate Sports²³. Jay.

MR. ROSENSTEIN: Thank you Marty and thank you for having me here and welcome to all of you... My background is actually in sports television, I spent 15 years at CBS and I was a participant in many of the major television rights negotiations that took place in the 1980's and the early 1990's. The last one that I was involved in happened to be my last one as a television executive because when I was at CBS, we lost the NFL in 1993 to Fox, which began broadcasting in 1994. So, since then, I've been involved with a number of different ventures and this sports collectibles opportunity is really one that I've only been involved with since last summer and I've been CEO for about three months now and I would echo very briefly what Joe Grippo had said earlier about the desire to restore confidence in the collectible marketplace because I think we all agree that confidence leads to credibility and credibility leads to growth and it's in everybody's interest to figure out ways to grow this overall marketplace and involve all the demographics that are potential to participate in the collectibles industry and our company is a third party authenticator that is involved in providing third party witnessing for

22. Ken Griffey, Jr. currently plays centerfield for the Cincinnati Reds. <http://www.gpkonline.com/griffey/index.html> (last visited Dec. 4, 2002).

23. The company is officially registered as AuthentiDate Sports, Inc. <http://www.authenticdatesports.com/> (last visited Dec. 4, 2002).

autograph signing that take place for newly minted collectibles and memorabilia and we believe that along with others that are in our space, that this provides the kind of service that will provide a solution and can be able to help that confidence grow in the market. Thank you.

MR. APPEL: Topps finally deemed it appropriate to put an attorney in the Sports Department, with the growing complexities of issues surrounding just being in the collectibles world. Mark Gatto.

MR. GATTO: Thank you Marty. I'm Director of Player Licensing at the Topps Company and I've been there for about a year and a half. As Director of Player Licensing, my chief role is to negotiate contracts with players and their agents for personal services. As Howard alluded to before, this industry is dominated by insert cards and the main, the most valuable card right now are autographs, so we have to go out and contact each agent and ask them, tell them that we'd like to do a deal with one of their players and then we go through the normal negotiation process over rates and quantities and when it's going to be done and where it's going to be done. In addition to that, we also acquire game-used memorabilia, game-used jerseys, game-used bats, we get to negotiate those deals whether they be with an outside vendor or directly from the players, so we're at the front line and I guess it all starts with us, as far as the insert card is concerned.

The issues that I would like to address, I don't know if they are necessarily issues, but I think for many of you out there who want to get into this industry or who are practicing attorneys who are looking to change their position from a traditional law firm atmosphere, is that it's a different business when you are negotiating as a lawyer in the sports industry. When you are negotiating a real estate deal or an aircraft finance deal, the lawyers are very rigid. You have a keen eye when you're looking over terms and language and so forth. In the sports industry, you want to be a tough negotiator, but as Sy said earlier, you want to make the deal and that's very important, I think. When I first transitioned into this industry, I was taking my skills from the law firm and from the in-house counsel position and maybe overanalyzing, over lawyering things, but when you learn the conditions of the market and you learn about the people you are dealing with, you understand that everybody wants to get something done so they can make money and move on. The deals that we do at Topps are very short-term oriented. They are not long-term. You ask a guy to do 1000 autographs for you, he does the 1000 autographs, you pay him and you're relationship is over, so that's one of the things that, I think a lot of

you are probably interested in. There is a transition from being a traditional law firm attorney, or corporate attorney to someone like myself who, I'm in a quasi business legal position.

Some of the other issues that are very important in this industry are the relationships with the players and the agents. When you are asking professional athletes to do personal services for you, you have to make sure that you continue to build your relationship with them and you have a good rapport with them, because if they decide not to show up, we are in trouble because we need to put the product out, we need to deliver what we promised to our clients so that's a very important aspect of this business, relationships with the people outside of your company that you do business with.

Some of the other issues that we are faced with are witnessing and authenticity. We are also faced with just marketing issues that how collectible are players, what prices should we pay for them and it's really an all-encompassing job that you really need to be aware of everything that goes on and it's enjoyable for me because I was able to, like I said, find a position that I was able to still use my skills as a lawyer and use my financial background and my business background, so I look forward to discussion later. Thank you.

MR. APPEL: I first encountered Brandon Steiner when I was producing the Yankees games for WPIX, back in the '80s and he was helping Phil Rizzuto out with his contract negotiations as a courtesy really, it was a friendship. . . . Brandon Steiner.

MR. STEINER: Steiner Sports has been around now about 15 years, we started with about \$4000.00, a maxi bus and a couple of dreams. I really started as a marketing person who connected outfits with corporations representing a bunch of players. I was a collector as a kid. I think collecting, we've all kind of touched on it, that it has a beginning and an end. What's happened, when it becomes big business, and why you rarely see Steiner Sports Collectibles on TV. You won't see it in that many catalogues and frankly, I hope we run out of half of what we've got. My dream today is that we run out of a lot of stuff today. I hope we run out of everything and I hope can fulfill everything the customers want, because that kind of chase [is] what keeps things special. . . .

MR. APPEL: Thank you Brandon. Keith Goldfarb is with us today from AuthentiCom of Bellevue Washington. [Keith is an] autograph expert who will tell us a little bit about his company as well. Keith.

MR. GOLDFARB: Thank you very much. Actually it's Authentic Enterprises Inc. The company name has changed, but the purpose is still the same. I was contacted about a year and a half ago by a couple of gentlemen, Ron Tyler, who was the former Executive Vice President of "Tough Stuff" magazine, and Mr. Fingers to see if I was interested in coming on board and taking over the authentication arm of the company because of their concerns with authenticity. Mr. Steiner just mentioned that authentic collecting is something that is very exciting and long-term, you know the value is there.

The one thing that came to mind was, what is authentic collecting? If you bought something from Mr. Steiner's company, you can be assured that it's authentic; if you bought something from somebody else, they will tell you that you can be assured it was authentic, but there really is no governing body or determinant as to what is an authentic item. I had done literally thousands of examinations of sports memorabilia and unfortunately a great percentage of them were forgeries and authenticity is the major aspect of sports memorabilia. Without authenticity, nothing can be marketed and there is no future for the industry, so that's something that we at Authentic Enterprises have been working very hard on. I've actually spent the past year or so working on a patented process to be able to do something that will hopefully make a difference in the industry in regards to addressing authenticity. The one thing is, is that authenticity from a collector's standpoint is the biggest problem in the world.

I was contacted a couple of years ago by New York consumer affairs as they were doing a search for authenticators that had backgrounds in sports memorabilia and it had to do with a problem they were having at ebay²⁴ and in sports memorabilia for us and I was asked if I was interested in becoming an authenticator for ebay or for their authenticator for questions on sports memorabilia. My very first position was having to authenticate items that had already been authenticated by another forensic document examiner that had written books that I had read and it brought to mind the problem that the collector faces is, who do you trust? The gentlemen who had authenticated the items at 700 court cases, that taught for the FBI, the CIA, his reputation was impeccable and I'm sure that nothing that he did was anything other than honest and forthcoming, but the criteria by which he was examining the autograph was the problem, because there is an entirely different process to examining autographs than there is to examining a traditional document; a will, or some other type of

24. ebay is a company specializing in online auctions. <http://www.ebay.com/> (last visited Dec. 4, 2002).

legal instrument. Eventually, that company and that authenticator was not allowed to put stuff up on ebay, but the end result was that ebay and not just ebay, but the entire sports memorabilia collectible industry, is still in a position where they don't know who to trust and that's again one of the main reasons why I felt it important to come here from Seattle, and I spoke with Rollie who flew in from Las Vegas. And I'm sure all these other fine gentlemen feel as strongly as we do as well. Anyway, that's why we are here.

MR. APPEL: Now we mentioned the name Mickey Mantle a few times, I wanted to, as we talk about the evolution of the collectibles industry, you know Mickey was a ballplayer. He wasn't a businessman per se, especially during his playing day, although he became pretty astute at the business side of it later in his life. I often talk about the fact that three times Mickey was a hero of the collectibles industry vis-à-vis trading cards.

First time was when he was a rookie and in his early years and in the magic years of the '50s when his national celebrity grew and although we never used the term chase card in the 1950's, that's what Mickey Mantle was. He was the card you would buy packs and packs for until you got a Mickey Mantle, so you chased after Mickey Mantle and he was in fact, the first super star of the industry, in terms of people wanting that card. But people would get the card and they'd wrap rubber bands around their pile and nobody gave much thought to an ultimate value to the card, they just knew that they would like to have it.

Then in the late 70's after Mickey had been retired for about ten years, there came a day when somebody sold a Mickey Mantle rookie card to somebody else for, I think it might have been \$2,500.00, I'm not sure exactly. The transaction was reported by the Associated Press and received national attention that a Mickey Mantle rookie card was worth \$2,500.00. That gave birth to this whole card show frenzy that showed up in the late '70s. The conventions, the card shows, the value of, the hunting of old cards. So that was the second time that Mickey had kind of been a hero to the industry and created this whole secondary market with the price guides and everything.

Then the market was flat after a time, there was a proliferation, there were too many companies, too many products out there and then came the horror of the 1994 baseball strike, which sent the industry tumbling and Mickey died in 1995 and in 1996, Topps decided, as a tribute to Mickey, and of course to help card sales, to reprint all of his original cards, clearly marking them as reprints, but to reprint all of his original 18 cards and

seed them into packs of Topps. Well, all of a sudden, you had kids going after these reprint Mickey Mantle cards and fathers, mothers, buying packs for their kids, kind of recalling the feeling they used to get out of opening a pack and finding a Mickey Mantle in there, and so even though he had passed away, this was now the third time he became a hero to the card industry. Topps had a great year in '96 selling those cards with the Mantle reprints and once again, Mickey had spurred that industry. So his impact in this will always make him, even in a passive nature, one of the most important players ever in sports collectibles. That was just an aside.

Phil Carter has been with Topps for nearly 25 years, runs the sports department now, processes well over a thousand contracts each year for player rights, deals with agents. Phil Carter, tell us about what's going on with Topps these days.

MR. CARTER: Thank you Marty. Thank you for having me here with quite a distinguished panel. As Marty said, I've been with Topps nearly 25 years. I started there in 1978. I'm Director of Player Licensing or Licensing in Sports for the Topps Company. The department is responsible for running a Minor League awards program, which has been in existence for 47 years which recognizes the performance of Minor League ballplayers. This is going all the way back before it became popular to recognize Minor League ballplayers. We give out 160 awards each year. We sign individual baseball players to contracts, which gives us the rights to put them on a card. We do not get a group license as we do with football and basketball and hockey. Our license comes from signing players through an agreement with the Player's Association when they came into existence in '69. We sign over 1500 individual ballplayers' contracts. We negotiate 1200 agreements with players to have their autographs for promotional rights, to be inserted into cards. It's quite a monumental task. It's gone from being a businessman and making the deal to [intense] negotiating so that now we have to become very astute legal minds and we need legal advice. I was just telling Sy, it looks like our thanks for being smart businessmen is we've now had to turn to attorneys and attorneys are taking over our positions and we are being moved out.

Some of the things that we're facing that I'd like to see us talk about is escalation of the autograph rates that are going up for players and that has a major impact on the profitability and the health of this industry. The legal issues regarding licensing, I mean it has gotten to be very, very tough. You no longer have major rights, or exclusive rights, or even general rights to put anybody on. They become very particular. They take that pie that the player has and slice it and dice it in all different ways. You

can be on this type of card, you can be this type of product, but you can't be in this product. Your term can't be for a full year, it can only be for six months. You can't sell it throughout the world; you can only sell in the United States, or Japan. And anytime you want anything, you now have to pay additional. So it becomes a little bit more of a challenge to get what you want and what you need, in order to sell these packs of cards.

Authentication of both autographs and relics is extremely important and has been damaging to this industry. At Topps, when we started getting autographs in our products four years ago, we insisted that we witness every single autograph. We are the only card company that witnesses every single autograph. We put a sticker on the back certifying that we witnessed. So when you open up that back and you get an autograph of Rollie Fingers, you know by looking at that sticker that Rollie signed that and that it was witnessed by a rep. And then when you want to sell it to somebody else, they can turn on the back and say, "Yeah, that's an authentic autograph". We are the only company that does that. Our relics that we acquire, we have three different people viewing the relics to make sure that it's authentic. If there is even any question of whether it might be, we're not too sure, we return it and it is not used. That's about it. Thank you very much.

MR. APPEL: Thanks Phil. The attorney from West Caldwell, Joe Pecora, Joe.

MR. PECORA: Thank you. Let me start off by saying thank you for inviting me here. I am not a collector. I have for the past 42 years been just a practicing attorney. I've done a lot of mergers and acquisitions, licensing. Such things like, maybe you'll be familiar with the names, King Kong, Ghostbusters, Star Wars, and always represented clients in doing this. The closest I came to collecting memorabilia is chewing Bazooka Bubble Gum. Until I met Barry Hopper, who's my client, and we got involved with making deals with the Hall of Fame and having a very successful auction at Sotheby's²⁵ and getting involved in this from the legal aspect. I would say that the state of New Jersey has a case of *O'Keeffe v. Snyder*,²⁶ which kind of opened up New Jersey as, in my opinion, being the forerunner of what's going to come down the pipe. Although that case didn't solve anything for the litigants, it just returned it

25. Sotheby's is a well-established auctioneer that also conducts auctions online. <http://sothebys.ebay.com/> (last visited Dec. 4, 2002).

26. *O'Keeffe v. Snyder*, 83 N.J. 478 (1980).

to the trial division to determine more facts, it nonetheless gave a lot of advice and dictum as to how that case should be tried, and it introduced the Uniform Commercial Code²⁷ into this field to cover the sale of all personal property including memorabilia. So that if a person purchases from, that is the bonafide purchaser purchases from a dealer, and it can be shown that he's a dealer, the purchaser can get good title against the true owner, leaving the common-law maxim in the rear saying you can never get a good title against a true owner, for lost or stolen goods and inciting the Statute of Uniform Commercial Code, it indicated that even if the dealer was guilty of a theft, pass good title. Significant in this area because most actions to recover goods that are valuable memorabilia are going to start with a replevin action, that means they want the thing back.

If Billy Crystal lost his Mickey Mantle glove after all he paid for it, I'm sure he'd want it back. He doesn't want the money, he doesn't want the damages, he wants the article. Consequently, if that were entrusted to a dealer and the dealer sold it, Mickey Mantle's glove would be lost to Billy Crystal. It doesn't mean that he couldn't get damages from the dealer, but according to this case, in New Jersey, that's the way it is, except if it's a person to person, not through a dealer, then our Supreme Court in New Jersey has said, we're throwing out the Statue of Limitations, we're going to the discovery rule and we are now going to establish the conduct of the true owner to determine whether that true owner has been diligent in letting the world know of the lost item or the stolen item, whether she has or he has taken active means to recoup that loss and if the true owner survives that examination, then we will not put the Statue of Limitations as a bar against recovery. That's New Jersey, it doesn't seem New York follows the same rule of law. New York seems to treat dealers and individuals the same way, and they use laches and estoppel to measure criteria, which is purely equitable, not even mentioning the Uniform Commercial Code. Insularly to that, we also have the problem with damages, which is up in the air all over the United States.

What are the damages? In *Menzel v. List*,²⁸ a New York case, a painting, a Chagall painting was sold in Belgium for \$150. In 1932, they had to leave because of the Second World War coming, left in the apartment and went. Of course, it was stolen through occupation and showed up in a Parisian Art Gallery, which sold it to a New York art gallery and Mr. List bought it for \$2,500.00 in New York. When it was

27. The Uniform Commercial Code is a body of law governing commercial transactions. <http://www.law.cornell.edu/ucc/1/overview.html> (last visited Dec. 4, 2002).

28. *Menzel v. List*, 24 N.Y.2d 91 (1969).

discovered by the true owner to be owned by Mr. List, a suit was brought against Mr. List to return it. But, at the time the case went to court, the \$2,500.00 painting was now \$22,500.00. What is Mr. List entitled to? The painting, the \$2,500.00 back, or \$22,500? New York court examined it and they decided that it's such a mess; we are only going to give Mr. List back his original purchase price plus interest and the painting went back to the owner.

So you have to really forum shop, if you are going to practice as an attorney as to what the law of the state is where you are going to litigate this matter, then trust to look. Thank you.

MR. APPEL: Well, there are only two relief pitchers in Baseball's Hall of Fame and we've got one of them with us today. Besides his rather distinguished career in baseball, which led to the Hall of Fame, he's also become a businessman involved in the sports collectible world. Ladies and gentlemen, Rollie Fingers.

MR. FINGERS: You know when I was a kid, I collected cards just like just about everybody else. I still have them, my mother didn't throw them away, I still have them at home and when I got to the big leagues in 1969, I would get cards from Sy Berger, you would send me my rookie card and I had no kids and consequently, I had no friends that really collected cards so I'd throw them away. I probably threw a couple of thousand rookie cards away that are now worth about 80 bucks, so you can add that up. I was real stupid, but you know the memorabilia business, I really didn't pay that much attention to it until 1992. In 1992, I was inducted into the Hall of Fame and when you get inducted into the Hall of Fame, your life changes.

You know a lot of guys will do the [collectible] shows and they'll go out and they'll walk around you know, not a whole lot. They'll sign their autographs, you may sign 300-400 autographs and then they'll scoot out the back door. I, on the other hand would walk the shows. I loved going out and looking and seeing what was for sale, what memorabilia was out there, what autographs there was out there and after a while, being in the Hall of Fame, I could recognize signatures. And a lot of times I would see signatures that weren't even close to the guys that I knew that had signed and that is when I decided, about two years ago, to maybe do something about this. I had seen so many forgeries. I was at a show, probably about eight or nine years ago and I'm walking through the show and there's a signature that says "Rollie Fingers" and I looked at it and it wasn't even close. So I signed a piece of paper and I went over to the guy who had the

booth and I said, "Whose signature is this"? He said, "That's Rollie Fingers". I said, "So what's that one down there". He said, "That's Rollie Fingers". "No". I said, "No, my first name doesn't end in Y". That's how bad it was and so I started to walk away and the guy says, "Here, can I have a piece of paper"? I said, "Why"? He said, "Well I know that's an original". I said, "You tear that one up and I will give you this one and that's what he did". But, I've seen so many signatures out there that are forged and that's why I got into the business with Authentic Enterprises. A friend of mine, Ron Tyler, who was Executive Vice President of Tough Stuff, we were looking around for a gentleman to authenticate our signatures and, hence Keith Goldfarb. We found out about him and what he had been through, the things that he had done and we are just now getting this started to authenticate signatures and that's why I am here today. You know I signed thousands of autographs and quick story, probably the most unusual autographs that I've ever signed at a card show, a gentleman walked up to me and stood there and took off his prosthetic leg, laid it on the table and I signed it and he put it back on and walked away. So people will have you sign just about anything, I found out. But that's why I'm here and we're just trying to improve the business. We want to make sure that kids don't get ripped off, that when people do buy a signature, that it is authentic and that's why I'm here today. Thank you.

MR. APPEL: Now we'll move on to the portion of the program that's just going to be open Q&A for everyone

First question is for Howard [Skall]. How do you pick out a particular grading company last year PSA to authenticate uncirculated pre graded cards? What is this saying about the credibility of grading by other grading companies? Do you want to explain a little bit maybe about what grading is? What do those companies do?

MR. SKALL: I'll probably leave a little bit more of that for the guys from Topps. I'm not involved as much in the whole grading process because the grading is really done more at the licensee level than the licensor level. We have entered into, the one thing that we've used PSA for, and it wasn't really for grading it was more for authentication, is a program that we have done jointly with the National Football League called NFL auction and it's on ebay and it's a way to auction off game-worn memorabilia, signatures. We go out on the club level, do mass signings with NFL players and also do mass game-worn collections where we'll work right with the team and have one of our reps and have a PSA

rep right there when the players come off the field to get game-worn jerseys and then auction off on ebay for a couple of charitable organizations, the NFL Youth Fund and the Players Assistance Trust Fund. I don't have a lot of involvement with the grading, so I apologize I can't answer that question better. Maybe some of the guys at Topps or Brandon might be able to explain more of the whole grading process.

MR. APPEL: Somebody from Topps, Phil, do you want to take the grading question?

MR. CARTER: Well, as far as the grading that we've done, it was a little bit of a responding to what we've heard in the hobby to have graded cards which is a whole new area that came into business about five or six years ago. There are several grading companies, PSA, Beckett's, going all the way down to, I'm sure there's Johnny Jones over here and Hoboken Grading Service. We selected PSA. I was involved directly in that. We needed a company that had a good reputation that had a high Q factor and it came down to pricing. You're going to put a card in there and he wants to grade it's for \$20. That's a lot of packs to sell to get to make that up. We use PSA for these new uncirculated cards.

One misconception I think which we find a lot, Topps and of course Upper Deck and the other principal competitors in the business are in the business of selling new cards and the so-called secondary market operates without the control of the card manufacturers. If a Mickey Mantle card sells for \$1,000.00 somewhere on ebay or in the secondary market place, none of that money goes to Topps, nor does Topps oversee that end of the business. What it does, of course, is reinforce the value of the company's products and encourage people to buy more of that company's products. So we like to see a healthy secondary market, but the secondary market runs separate and apart from the card company's principal interest. However, digressing off it from that, there is a new product that Topps had introduced just in recent months and its called eTopps and as the name suggests, it's an online trading card. You would go to eTopps.com and you would see images introduced of only six different cards a week and there are offering prices for these cards, which are called initial player offerings, IPOs. So for instance, in week one of this baseball season, Topps produced 1000 Barry Bonds²⁹ cards, no more, no less. Eight thousand Barry Bonds cards, offered them at \$9.50 a piece. Now people

29. Barry Bonds plays baseball with the San Francisco Giants.
<http://sports.espn.go.com/mlb/players/profile?statsId=3918> (last visited Dec. 4, 2002).

can go online and attempt to acquire as many of these as they were interested in and let's say, just like an IPO stock, you don't always get everything you want. Let's say, somebody got 10 Barry Bonds cards, invested \$950.00 in it. It then becomes part of their portfolio. Now these are real cards, they could take possession of them, but by leaving them in their portfolio and without ever asking for them, they are guaranteed to be in mint perfect condition and then there's a business relationship now between eTopps and ebay where you can visit ebay, go to eTopps section and see what these cards are currently worth on the open market because people will buy them through regular ebay bidding at this eTopps site. Because Barry Bonds is off to another spectacular year, the value of his cards yesterday were over \$50.00 a piece. Now there's no guarantee everybody's is going to go up, but this is another concept that Topps had introduced - online cards. The reason, find you collectors, people who like fantasy sports, people who like to be on the computer a lot, people who like to buy and sell stock. Companies need to find new people, new audiences for their products and this is an attempt to do that, so I just wanted to make you aware of that.

MR. APPEL: This is a question addressed to no one in particular, but I'm actually going to direct it to Sy [Berger] to begin this comment. The question is a simple one. Are the chase cards printed, how are the chase cards printed in proportion to the other cards? Now a lot of people who meet Sy for the first time will ask the obvious trading card question, "Hey, didn't you print really few Mantles' and Mays' compared to everybody else?"

MR. BERGER: Quite to the contrary, the way our cards are printed, they are printed on huge sheets and now, while I was in the early days, 12 rows by 12 on a sheet, 144 cards. Now I notice they print it on sheets that run about 100 cards and that 100 cards, if you print 100 sheets, you are going to get 100 of each player who appears on that sheet. We printed the same number of cards for each and every player. Today, I don't know, I haven't been attuned to what's going on in the business. I was going back to printing in series, but I still think we print the same number of cards in the second series as we do in the first series, but I can't testify to it. As for the chase cards, those are the cards and as Phil [Carter] mentioned, we mentioned the ratio of chase cards to the regular cards and that's required by law, I assume. I've seen chase cards while I was active with Topps; I'm a consultant now and I can't attest to exactly how the chase cards work. I think Phil might have some idea. I would assume that if we print

100 or regular cards, we will print a minimum quantity, say 5 or 10 to each 100, but I can't say just how it runs now.

MR. CARTER: To answer your question, it varies depending upon the product, depending upon what the insert would be, but it's an autograph card, the odds are printed on the back of the wrap for our attorneys. The other odds for the inserts, which we call insert cards but it's the chase cards, the terminology is basically the same. They are inserted at a different rate than the regular cards. So all the regular cards are printed in equal numbers. You are going to find the same number of Shane Spencer's³⁰ card that you would of Alex Rodriguez³¹. There are insert cards of Alex Rodriguez, for example that are going to be put in at a rate of one every box or one every five boxes, something in that order, so it could even be one per case. So it's dependant upon the brand, what the product is and how rare we wish to make it.

MALE VOICE: But Sy, wouldn't it have been good business to print fewer Mickey Mantle's then Jerry Lumpby's [Phonetic]?

MR. BERGER: Yes, it would have been good business but it wouldn't have been fair and I think part of the reason for our growth and the feeling that people have for the Topps cards are because they are, they were printed so that everybody can get a fair share and also the accuracy, which they always had.

MR. APPEL: Another card question - Are the popularity and proliferation of game-used and other authentic trading cards and collectibles, causing such products to actually become less unique and therefore, less valuable and what, if anything can be done by the industry to control this; for example, photo session worn authentic cards which one company currently produces? Somebody want to take that one?

MR. CARTER: I'll take a shot at that. It's two-fold, the relic cards that have come out in the past few years, taken on a great life and the relics are. . . I don't know if everyone is familiar with it, but you take a jersey and they cut up a piece of the jersey, they embed it in a card, or a piece of that and they embed this in a card and it's sold as a relic card or

30. Shane Spencer currently plays baseball with the New York Yankees. <http://bigleaguers.yahoo.com/mlb/players/5/5770/> (last visited Dec. 4, 2002).

31. Alex Rodriguez is a shortstop for the Texas Rangers. <http://sportsillustrated.cnn.com/baseball/mlb/players/3099/> (last visited Dec. 4, 2002).

memorabilia card. The player doesn't sign it. What you get is a card, it has a $\frac{1}{4} \times \frac{1}{4}$ ", or $\frac{1}{2} \times \frac{1}{2}$ " swath of jersey that supposedly was worn by the player. The value in the secondary market is equivalent to getting a card signed by that player, as hard as that you may believe. I find it also hard to believe, but that's the facts. The relics that we get, you can get relics of retired ballplayers, their bats, their uniforms and their value remain the same, because back then there was only a limited number of jerseys or bats that were used. In today's market, you get in a card ball player, the player now can wear a new jersey every single game, so the value of current relic cards or memorabilia cards of current ballplayers are not as valuable and we see that declining because it is not as rare as we once thought it was. The retired ballplayers, they still maintain value. I hope that answers your question.

MR. APPEL: . . . From our audience comes the question, "As more women's sports are popping up, do you see just as big a market for women's sports collectibles in the future as there has been for men's sports collectibles." Brandon, you sold Mia Hamm autograph items.

MR. STEINER: I'm very proud, I've done the Mia Hamm³² collection and I probably had a few too many drinks with the agent when I signed that deal, because when I came back, my guys looked at me and said, you're crazy, you are out of your mind and I literally had to go back six months later to renegotiate that to expand it and extend it. We went to some places where we hadn't been before with Mia and you know, she's a special person with a special talent and it takes that kind of person to break ground as we did with Mia and there's been some great woman athletes and celebrities to do that collectible line with her, was special. I think the big problem with woman's sports now I'll just say this is women, you know, the women don't support the product, they don't support the process enough. I mean I'm sitting there watching the NCAA final for women and I can't get my wife to even give it a look and I think it's going to take a while before it even comes around because on the collectible end. There are a lot of girls that are heavily participating in girls sports and we need to wait awhile till they become decision makers. Kind of a little bit of what we sensed with soccer as all those young kids 15-20 years ago at the Cosmo's and they are now becoming decision makers and the soccer league can exist. I think that the other wall in the way of women's

32. Mia Hamm is a world-renowned female soccer player.
<http://www.miafoundation.org/aboutmia.html> (last visited Dec. 4, 2002).

collectibles is tennis. You know the women tennis players are very difficult to get deals done, as is most of the tennis environment. All the personalities, there's no big picture; there's no vision. Once it's got like 18 zero's on the number, you know, you can't get the Agassi's³³ and the Venus Williams',³⁴ you just can't get it done when you need to get it done. I give Mia a lot of credit for stopping for a moment and setting the tone on that end, we got a lot of success. I think the next success will be in the WNBA where some of those players, I think there's some collectibilities there.

MALE VOICE: I was just going to say, from an historical standpoint, Babe Detrickson is the most valuable of all the sports collectibles for women from the 1940's, at least to my knowledge and the evolution of collecting is something. . . I was listening to Rollie earlier talking about Willie Mays questioning the value of his card compared to Mickey Mantle's when they both came to the same card set, they're rookies and one is valued at \$3000.00, the other one around \$50,000.00 and we heard Mr. Berger say that there weren't less of Mickey Mantle than Willie, so why the discrepancy?

MALE VOICE: Well, actually Mickey '52 was supposed to be a triple print. The only reason I mention that is it's been listed in the sports collectible guides for years that '52 Topps is a triple pack.

MALE VOICE: If you didn't hear Sy make that little comment there, he personally dumped lots of those '52 cards into the Atlantic Ocean about 10 years after they were issued during a spring clean-up at the Topps offices in Brooklyn. This was of course, long before anyone paid any attention to value, but that's one of the great legendary stories in the history of Topps. Sy going out and dumping boxes of Mickey Mantle rookie cards into the Atlantic.

MR. APPEL: Let's talk a little bit about the cost of these collectibles to consumers. Whether they are things making them more expensive than they ought to be. Whether it's hampering the growth of the industry. I mean the licensing agents are the ones who set royalty rates and guarantees, trading card companies, Brandon Steiner's company and

33. Andre Agassi is a professional tennis player.
<http://www.geocities.com/agassionline/agmain.htm> (last visited Dec. 4, 2002).

34. Venus Williams is a professional tennis player.
<http://www.geocities.com/venuswill2000/index2.html> (last visited Dec. 4, 2002).

companies like that have to pay it. Is there a sense that it is getting a little difficult to price and it's becoming a factor for consumers. Do you see anything like that?

MR. CARTER: I think we spend about \$12 million a year on athlete talent and then some other companies spend quite a few million as well.

MR. SKALL: I think one of the things that you mentioned, Brandon which we struggle with and try to work on is sometimes it's tough to get players to see the big picture and that's something that, as a licensor, we strive everyday and try to use the opportunities we have to address the marketplace situations and to have players look at it from a big picture standpoint and not just from. . . you know this is the deal on the table right now and this is what I can make today. I mean some of the history of what we do, which Richard could probably talk some more about is some of the things in the early '90s where NFL properties gained the players for \$10,000.00 to try to get their licensing rights away from the Player's Association, you know, players looked at \$10,000.00 where many of those players who maybe even accepted that money probably ended up making hundreds of thousands dollars more if not millions down the long road for the fact that most of the players stuck together and we were able to get free agency which is kind of a little bit of an analogy, but looking at it from the standpoint of working with players on a daily basis to kind of understand the big picture and one of the things that we've done and we meet with agents every year a couple times a year, myself and Mark as well, we were at an agents seminar in Indianapolis a couple of months ago, and we told agents, we said look, this right now is a soft marketplace, don't get caught on a particular price per card. It's amazing sometimes, you'll be working with an agent or a player and they'll be, you know, I have to have \$30.00 a card and maybe they're the kind of guy where the company will want to use, so the company will give \$30.00 a card, but a lot of times like somebody from Topps will come back and say okay, well give you \$30.00 a card, we'll give you 30 cards, so you can make \$6,000.00, however if you are willing to take \$20 a card, we'll give you 500 cards or 1000 cards, where you know they can make more money in the long run, but sometimes players will kind of get stuck on price per card. The other thing that I think is real important when working with players and I've noticed especially with former players. I don't know if Rollie, if he's had this experience or not, but I've noticed a lot of times when we are working with former players that the bigger concern is how they are being treated compared to everybody else. We'll go out sometimes and try to do

something where maybe we are offering 10 guys and it's the same deal, it's \$2000, everybody's getting the same amount and they will do it, just because everybody is getting the same amount, even maybe if. . . in that instance, they wanted to get a little bit more, but because everybody is getting the same amount, all of a sudden it's kind of okay to them because everybody is being treated equally and I think that's something that plays a factor in the things as well.

MR. APPEL: Larry.

MR. BERSHAD: I wanted to ask Rollie Fingers, being that he's the only Major League Baseball player here, especially Hall of Famer. Every year at the induction center, at the induction. . . at the Hall of Fame in Cooperstown, usually the last week in July. All the Hall of Famers are required to appear on the lawn of the Odis Saga and sign for free for kids, usually under 15, I believe. And yet, go two blocks at the F.W. Woolworth's Store and a guy with a megaphone, Pete Rose signing from 2:00 to 3:00 next to the Scott toilet paper downstairs. You know, you get to. . . and I think some of the Hall of Famers have migrated to that. . . you get a payday.

MR. FINGERS: Most of the Hall of Famers that go back there were basically hired by these people to sign autographs in front of their stores. The Hall of Famers that are older, they didn't make the huge money and all of a sudden, now you know they can make maybe \$5000-\$6000 in a weekend signing autographs.

MALE VOICE: What do you think of Pete Rose being there.

MR. FINGERS: Well, you know, Pete's there signing autographs, he knows he can make some money there and he feels as though he probably should be in the Hall of Fame and there's a lot of people who think he should be in the Hall of Fame but you know, I've seen other players there who aren't in the Hall of Fame still signing autographs. They still show up there. You know since 1992, when I went in, there was a section or a time set-aside for kids. We would go out to the induction ceremony where they have a gym and all of the Hall of Famers would go out there and we would sign free autographs for every kid that showed up. We would sign them a Hall of Fame plaque cards and we would give them to the kids for free because we knew that there are not going to be able to come downtown and walk the streets and pay \$20 or \$25 for an autograph, you know for

some of these guys and last year they stopped it why, I don't know, we still don't know why.

MALE VOICE: As long as the man is still there and you guys autograph, people are always going to pay for it. If they're willing to pay for it and you are willing to sign.

MALE VOICE: But seriously, I think the good news on that is, and I agree with you 100%, we already seen McGuire killing us, he hasn't signed an autograph yet, but what the good news is, a lot of players are taking that money and pushed it all to their charity. We see it with Derek Jeter; he just made $\frac{3}{4}$ of a million dollars donation to his Foundation, and we all know Derek doesn't need to sign autographs to make any more money. We see Mia Hamm takes, I think 20% of what we give her, and it goes to a foundation.

But to get back to authentication for a minute, if you don't sign your name at all, somebody else will sign your name for you, so you need to find some home to kind of base. That's kind of one of my favorite lines to tell them, it's no problem, but at least I can be out there please something, if you give a little something and for the time, let's split it with charity if you don't need the money and that will start the ball rolling a little bit anyway and it's been a real positive response. There's a lot of players now, where you see the checks getting made out to foundations or favorite charities and it's been a good plus from that and I think that's where McGuire is probably going to end up going. When you get guys who don't want to sign and they are in these clubs, tremendous frustration from the collectors and so charity angles have been good and it's very important that, the respect thing and again, the authentication when the credibility comes in and the players feel more comfortable. There's a lot of discomfort right now with some of the bigger names. I think the players have become, if anything they've become better ballplayers, but they're a hell of a lot smarter than the average businessperson. I mean because they are faced with so many business issues now. They're just a lot more astute, and the authentication comes back to trust. You know when the trust thing gets worked out; you know the MLB thing is just a big thing right now. Their authentication programs, MLB's on board, you see the leads NFL now starting to get engaged in it with trust. I think when the trust thing is out there, a guy's going to feel a lot more comfortable and maybe the playing field gets a little bit bigger with these current guys and it doesn't count so much about the money.

MALE VOICE: Illustrative of the new breed of ballplayers and how the players are different today, I went to Derek Jeter's Foundation Dinner a year ago, and I think he probably didn't mean to say it quite like this, but he said, "When I was a little boy growing up in Kalamazoo, I always dreamed of someday having my own Foundation". Which I don't think use to be the dream of players growing up. Speaking of, you brought up the issue of trust and authenticity and so forth and Jay, we have a question from the audience, "What exactly goes on at a witnessing program when someone is authenticating autographs"?

MR. ROSENSTEIN: A lot of this is a work in progress because the industry over the last few years has been looking at different ways of the best kind of authentication method. Our particular approach is to provide an on-site witness who is actually at the private signing or at the public show and is capturing digitally the image of the player signing the memorabilia as well as individual photos that are digitized and up linked to our website of the item that is being signed and is being eventually sold through the retail centers. What this does is, it also, in addition to being on the website and secure there as a digital photo, it also kicks out a nice plastic certificate of authenticity with has that digital image of the item that is owned by the person who registers it, as well as the picture of the athlete signing it and it has a special code that references the certificate that you hold in your hand to the digital image that's on the website and all that is locked in with various algorithms and technology that I don't begin to understand. We have issues in terms of access and how long it takes and what time of day the player may be participating in a private signing so there are a number of issues that still need to be worked out. I think the consensus is that third party witnessing and authentication is a must and now we just have to work on a way to achieve that, that system to work at it's best and to give us the credibility that the industry needs.

MR. APPEL: . . . Professor, we'll turn it over to you with gratitude.

MR. BERSHAD: Thank you Marty. . . This is a wonderful panel. I don't know how to express the appreciation on behalf of the Law School. . . . Thank you panel, thank you audience. See you next year.