



## MARC A. TOPAZ

### PARTNER EMERITUS

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#### EDUCATION

New York University School of Law  
LL.M.

Temple University Beasley School of Law  
J.D.

#### ADMISSIONS

USDC, Eastern District of Michigan

USDC, Eastern District of Pennsylvania

New Jersey

Pennsylvania

United States Supreme Court

Marc A. Topaz has a keen eye for what makes a successful case. As one of the firm's most experienced litigators, he has helped clients focus their efforts on cases with a favorable mix of facts, law and potential recovery. While Marc is currently semi-retired, he continues to counsel the Firm on case initiation and development in complex securities fraud, ERISA, fiduciary, antitrust, shareholder derivative, and mergers and acquisitions actions.

Marc has counselled clients in high-profile class action litigation stemming from the subprime mortgage crisis, including cases seeking recovery for shareholders in companies affected by the crisis, and cases seeking recovery for 401K plan participants who suffered losses in their retirement plans.

Marc's commitment to making things right for clients shows in the cases he has pursued. Recognizing the importance of effective corporate governance policies in safeguarding investments, Marc has used fiduciary duty litigation to fight for meaningful policy changes. He also played an active role in using option-backdating litigation as a vehicle to re-price erroneously issued options and improve corporate governance.

#### Settled

- Delphi Corporation: Shareholders recover in accounting case. Represented an Austrian mutual fund manager, Raiffeisen Capital Management, as co-lead plaintiff in class action litigation alleging that auto-parts manufacturer Delphi Corporation (Delphi) had materially overstated its revenue, net

income and financial results over a five-year period. Specifically, we charged that Delphi had improperly (i) treated financing transactions involving inventory as sales and disposition of inventory; (ii) treated financing transactions involving “indirect materials” as sales of these materials; and (iii) accounted for payments made to and credits received from General Motors as warranty settlements and obligations. When the fraudulent accounting practices became known, Delphi was forced to restate five years of earnings, and ultimately declared bankruptcy. We reached a \$38 million settlement with Delphi’s outside auditor; in addition, the class has excellent prospects for recovery through bankruptcy litigation.

- Southern Peru Copper Corp.  
**Case Caption:** *In re Southern Peru Copper Corporation Shareholder Derivative Litigation*  
**Case Number:** C.A. No. 961-CS  
**Court:** Delaware Court of Chancery  
**Judge:** Honorable Leo E. Strine  
**Plaintiffs:** Michael Theriault, as trustee of and for the Theriault Trust  
**Defendants:** Americas Mining Corporation, German Larrea Mota-Velasco, Genaro Larrea Mota-Velasco, Oscar Gonzalez Rocha, Emilio Carillo Gamboa, Jaime Fernando Collazo Gonzalez, Xavier Garcia de Quevedo Topete, Armando Ortega Gomez, Juan Rebolledo Gout, Southern Peru Copper Corporation

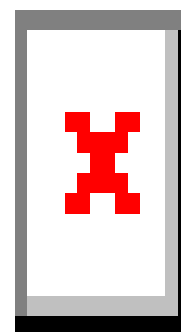
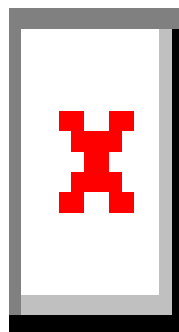
**Overview:** KTMC brought derivative claims on behalf of stockholders of Southern Peru, alleging that Southern Peru’s majority stockholder Grupo Mexico had caused Southern Peru to purchase mining assets from Grupo Mexico for an inflated price. Grupo Mexico sold these mining assets to Southern Peru in exchange for \$3 billion in Southern Peru stock. We alleged that Grupo Mexico had caused Southern Peru to grossly overpay for the private company in deference to its majority shareholder’s interests. Discovery in the case spanned years and continents, with depositions in Peru and Mexico. The trial court agreed and ordered Grupo Mexico to pay more than \$2 billion in damages and interest. Grupo was forced to pay this amount back to Southern Peru to remedy the overpayment. The Delaware Supreme Court affirmed on appeal. The judgment is believed to be the largest trial verdict in Delaware corporate law history.

### News

- October 1, 2020 - Kessler Topaz Meltzer & Check, LLP Once Again Included in the Benchmark Litigation Guide to America's Leading Litigation Firms and Attorneys for 2021
- September 24, 2019 - Kessler Topaz Meltzer & Check, LLP Once Again Included in the Benchmark Litigation Guide to America's Leading Litigation Firms and Attorneys for 2020
- May 8, 2017 - Kessler Topaz Again Named Class Action Litigation Department of the Year by The Legal Intelligencer
- January 3, 2017 - Kessler Topaz Again Named One of America's Leading Litigation Firms by Benchmark Litigation
- November 24, 2015 - Kessler Topaz Again Named One of America's Leading Litigation Firms by Benchmark Litigation

### Awards/Rankings

- Benchmark Litigation Star, 2019-2025
- Lawdragon 500 Leading Plaintiff Financial Lawyer, 2019-2023
- 2014 Thaddeus Stevens Award Recipient from the Public Interest Law Center of Philadelphia



### Community Involvement

- Public Interest Law Center of Philadelphia board member
- Divine Nine board member
- Supporter of the Abramson Cancer Center of the University of Pennsylvania

