

## West Palm Attorney Claims Record Post-Divorce Award

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A former petroleum executive's decision to drag his feet in transferring company stock to his ex-wife will cost him \$34.6 million.

A Sarasota judge found former Gulf Keystone Petroleum Ltd. CEO Todd Kozel owed his ex-wife millions for delaying the stock transfer for five weeks. Ashley Kozel's West Palm Beach attorney persuaded the judge to rely on a little-used precedent called the Madison Fund doctrine for damage calculations.

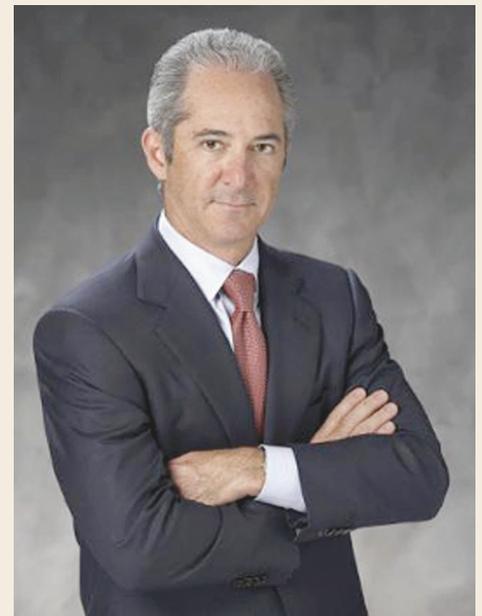
"We showed the court that this was the trend in the law and that it wasn't something we were just arguing. It was logical, it was reasonable, it was reliable," said the ex-wife's attorney, Jeff Fisher of Fisher & Bendeck.

Sarasota Circuit Judge Nancy Donnellan also ordered Todd Kozel not to sell or move any assets after finding he tried to transfer \$100 million to an overseas trust to avoid turning over money owed to his ex-wife.

The Sept. 11 decisions are some of the latest developments in legal sparring dating back to 2010 over the division of the former couple's assets. Ashley Kozel also filed suit last week in Manhattan Supreme Court for possession of a 3,800-square-foot Chelsea condo.

The Kozels signed a settlement three years ago that required Todd Kozel to deliver 23 million shares of London-based Gulf Keystone stock to his ex-wife by Jan. 27, 2012.

Instead, he delivered the stock in four blocks from



**Jeff Fisher successfully argued that a delay in his client's ex-husband transferring stock cost his client more than \$34 million.**

late January to early March 2012.

"The stock literally doubled in value and came right back down during that five-week period" due to a takeover rumor, Fisher said.

Ashley Kozel claimed her ex-husband owed her

millions of dollars for the delay because she planned to sell the stock soon after receiving it. She testified she called the oil tycoon on Feb. 20, 2012, to demand a transfer of the stock as soon as possible so she could sell it.

The case was far from a slam dunk, Fisher said.

“In these stock market cases, one of the concepts which is very difficult to overcome is proving that you would have sold it had you gotten it on time and the price you would have gotten,” he said.

Ashley Kozel’s team argued the judge should use the damages test established by the 1977 case *Madison Fund v. Charter*, which was filed in the Southern District of New York but applied Florida law.

The doctrine first asked whether there was a preliminary showing that the plaintiff intended to sell the stock during the delay. Donnellan found Ashley Kozel met that standard.

Next, the case established a way to calculate damages for the delayed delivery. Ashley Kozel’s attorneys called for

testimony from Marcia Mayer, an economist and former vice president of the American Stock Exchange.

Mayer constructed an econometric model that persuaded the judge that the 11.5 million shares Todd Kozel still owed on Feb. 20, 2012, lost more than \$30 million in value between the Kozels’ phone call and March 6, a few trading days after they were transferred.

Todd Kozel argued his ex-wife was not entitled to any recovery because of a paragraph in their settlement agreement mentioning that if he transferred the shares late, he would have to pay 6 percent of their value per year. But the clause did not limit Ashley Kozel’s recovery, the judge found.

Donnellan ordered Todd Kozel to pay \$34.6 million and place \$3.8 million in escrow for failing to provide an accurate tax basis for the shares, causing her to overpay capital gains tax.

Fisher said he was unaware of any other post-judgment divorce case in Florida that

awarded such a large amount of money. The next step will be tracking the domestic and international assets of Todd Kozel, who claims Lithuanian residence.

“We are now off to collecting around the world,” Fisher said.

Kozel stepped down as CEO of Gulf Keystone in July 2014 but stayed on as the company’s executive director. He co-founded Gulf Keystone along with other companies such as Texas Keystone Inc. and Falcon Drilling Co., according to Bloomberg News.

Ashley Kozel and the couple’s daughters live in Sarasota. She was represented by Fisher and Zachary Potter of Fisher & Bendeck in West Palm Beach and Bill Partridge, a partner at Grossman Roth in Sarasota.

Todd Kozel’s counsel for the Sept. 11 hearing was Robert Young of Icard Merrill in Sarasota. He did not respond to a request for comment by deadline.

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