

Insurance law attorney Jared Stolz comments on RSI Bank v. The Providence Mutual Fire Insurance Company

Recently, the New Jersey Supreme Court touched on issues related to PTI restitution and indemnification agreements. Jared Stolz, Esq. wrote a review of the case

FLEMINGTON, NEW JERSEY, UNITED STATES, May 25, 2019 /EINPresswire.com/ -- The New Jersey Supreme Court addressed issues arising from an indemnification obligation established as a condition in a pretrial intervention, in a case involving arson and subsequent insurance litigation. Insurance law attorney [Jared E. Stolz](https://jaredstolz.law.blog/) reviewed the case in a published comment, available on his blog at <https://jaredstolz.law.blog/>

“Third-party defendant Dr. George Likakis was charged with aggravated arson and insurance fraud after a fire destroyed a residential building that he owned.” As part of the pretrial intervention process (PTI), Likakis was ordered to pay approximately \$11,000 to Providence Mutual for payments it had already made to RSI Bank, the mortgage holder, and to indemnify Providence for undetermined future liability to RSI arising from the arson. Likakis paid the specified restitution amount during the one-year PTI period, but did not satisfy the indemnification provision as the litigation between Providence and RSI Bank had not yet completed. “With the prosecutor’s consent and with no discussion of the indemnification provision, the PTI court terminated Likakis’s PTI supervision and dismissed his indictment.”

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*Jared Stolz, insurance lawyer
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In subsequent civil litigation, Providence sought to enforce the indemnification provision against Likakis in its third-party complaint. After settling the claim with RSI for \$353,536.90, Providence sought to recover \$243,890.60 on the basis of the indemnification provision. Trial court enforced the indemnification and appellate division affirmed.

Likakis’ argument at all stages of the appeal was that trial court lacked the jurisdiction to enforce the restitution order and that only the PTI court was authorized to enforce.

The Supreme court addressed two points in particular. First, in order for a restitution order to be proper, the court has to carefully examine the defendant's ability to pay. Because the purpose of PTI restitution is at least in part rehabilitative, the restitution amount must take into consideration the ability to pay. Here, the open-ended order of indemnifying Providence's losses obviously does not evaluate whether Likakis actually could pay such indemnification amount. Further, the record was entirely devoid of any examination of Likakis' ability to pay the indemnification. In addition, the PTI proceeding terminated without any mention of the outstanding indemnification at the end of the one year period. Thus, the supreme court concluded, that Likakis had no obligation to make further restitution payments arising from the PTI agreement. The Supreme court also noted that PTI indemnification agreement was not admissible evidence in a civil litigation anyway. Therefore, trial court's ruling was reversed and remanded.

The case presents many issues to consider for insurance law practitioners in cases involving PTI restitution and indemnification agreements, notes Mr. Stolz.

The case is RSI Bank v. The Providence Mutual Fire Insurance Company, (A-079116)

About J. Elliott Stolz, Esq.

[Jared Elliott Stolz](#) is an attorney in New Jersey, focusing on insurance law and litigation. He is the managing partner of Stolz and Associates. [Jared Stolz](#) received his undergraduate education at Drew University in Madison, New Jersey and graduated with honors from Seton Hall University School of Law. Jared E. Stolz has been the managing partner of Stolz and Associates since 2004, specializing in providing individual and customized attention to insurance carriers needs on substantial coverage disputes. Mr. Stolz has nearly two decades of experience in the insurance industry and strives to offer the clients a combination of tried and true legal analysis along with tactic, brought to it by today's technology, with a focused eye on expenses. He has represented prominent clients in numerous noteworthy cases with published opinions and has published and given seminar on insurance law topics.

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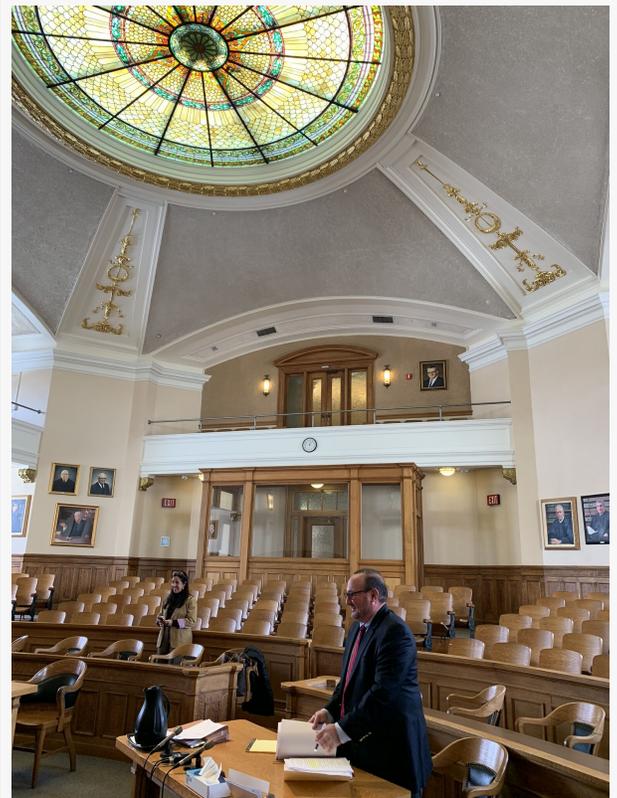
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