

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of Brandon Hofmann, Minor.

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PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

BRANDON HOFMANN,

Respondent-Appellant.

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UNPUBLISHED

December 20, 2002

No. 234642

Wayne Circuit Court

Family Division

LC No. 00-392390

Before: Fitzgerald, P.J., and Wilder and Cooper, JJ.

PER CURIAM.

Respondent appeals as of right the order of disposition requiring him to pay restitution in the amount of \$22,743.38, jointly and severally. We affirm in part and remand for further proceedings.

Respondent and four other individuals broke into the Beechwoods Golf Course in Southfield and caused \$45,486.76 in damages to the facilities, the golf carts, a truck, and other golf equipment. Respondent and a co-defendant were found guilty of malicious destruction of property in excess of \$20,000, MCL 750.377a(1)(a)(i).<sup>1</sup> Respondent was ordered to pay restitution in the amount of \$22,743.38, jointly and severally.

On appeal, defendant does not dispute that the total amount of damages suffered by the golf course is \$45,486.76. Rather, defendant argues that the trial court erred by ordering him to pay restitution in an amount that included both the insurance benefits paid by the insurance carrier to the golf course and the deductible paid by the golf course. He contends that affirmance of the trial court's restitution order would overcompensate the golf course. This Court reviews the amount of restitution ordered by the lower court for an abuse of discretion. *People v Tyler*, 188 Mich App 83, 87-89; 468 NW2d 537 (1991).

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<sup>1</sup> The remaining participants in the offense were convicted in separate proceedings and are not parties to this appeal.

Both the Crime Victim's Right Act ("CVRA"), specifically MCL 780.766, 780.767, and the Probate Code, specifically MCL 712A.30, 712A.31, provide for restitution for crime victims.<sup>2</sup> In determining the amount of restitution to be paid, the court shall consider the loss sustained by any victim as a result of the defendant's conduct. MCL 780.767(1); MCL 712A.31(1) A victim is a party who suffers direct physical, emotional, or financial harm as the result of the commission of a crime. MCL 780.766(1); MCL 712A.30(1)(b).

In *People v Norman*, 183 Mich App 203, 206; 454 NW2d 393 (1989), this Court concluded that a trial court may properly order a person convicted of a crime to make restitution to an insurance company that suffered a loss as a result of the crime. See also *People v Orweller*, 197 Mich App 136, 139; 494 NW2d 753 (1992). The Court concluded in these cases that MCL 780.766 specifically includes corporations as "victims" allowed to receive restitution. Similarly, MCL 712A.30(1)(b) provides, with regard to MCL 712A.30(8), that "'victim' includes a sole proprietorship, partnership, corporation, association, governmental entity, or other legal entity that suffers direct physical or financial harm as a result of the commission of a juvenile offense." MCL 712A.30(8) states:

The court *shall* order restitution to the crime victim's compensation board or to any individuals, partnerships, corporations, associations, governmental entities, or any other legal entities that have compensated the victim or victim's estate for a loss incurred by the victim to the extent of the compensation paid for that loss.

The insurance carrier paid benefits of \$35,486.76 to its insured for a loss sustained as a result of defendant's conduct that formed the basis of defendant's conviction. In addition, the golf course sustained a loss of \$10,000 for the insurance deductible that it was required to pay. Because both the golf course and the insurance carrier are victims, the trial court should have named the insurance carrier in the order of disposition as an entity entitled to receive restitution after the golf course was fully compensated for its loss.

We affirm the trial court's determination regarding the amount of restitution and remand for the trial court to include the insurance carrier by name on the order of restitution. Jurisdiction is not retained.

/s/ E. Thomas Fitzgerald  
/s/ Kurtis T. Wilder  
/s/ Jessica R. Cooper

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<sup>2</sup> The relevant provisions of the CVRA and the Probate Code are substantially similar.