

Restitution and Compensation Orders

Reported Case:	<i>R. v. Popert</i>
Citation:	[2010] O.J. No. 401
At Issue:	Restitution and compensation orders
The Court:	Ontario Court of Appeal
Judgment Rendered:	February 2, 2010
Factual Summary:	<p>The defendant set fire to a house. He plead guilty to arson and was sentenced to nine months imprisonment and twelve months' probation. The total loss to the insurance company was \$81,074.</p> <p>The defendant did not receive any of the funds paid out by the insurance company or otherwise profit from the offence. It was unlikely that he would ever be in a position to pay such an amount back to the insurance company.</p>
Trial Decision:	In addition, to the prison sentence, the defendant was ordered to make restitution of \$40,537.50 to the insurance company that had paid out monies due to the fire.
Appeal	<p>On appeal against sentence, the defendant asked that the restitution order be set aside.</p> <p>The Ontario Court of Appeal found that an insurance company could be the subject of a restitution order under s. 738(1)(a) of the <i>Criminal Code</i>, (with subrogation being inappropriate here because the owners of the house asked the offender to burn down their home), but, in the circumstances of this case, found the order should not have been made against the youthful first offender.</p>