

The San Diego
Union-Tribune.

\$1.3 million jury award to '03 fire victims upheld

Jan. 10, 2009

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An El Cajon couple whose home burned to the ground in the 2003 Cedar fire has won another round in a bruising five-year battle with an insurance company.

The 4th District Court of Appeal in San Diego upheld a \$1.3 million jury award to Patrick and Elsa Major of El Cajon. The couple had sued their insurer, Western Home Insurance Co., for breach of contract, fraud and bad faith.

A central issue in the suit, which went to trial in December 2006, was what the policy limits were on their home on Chocolate Summit Drive in East County.

According to the unanimous ruling by the appeals court, the couple bought an insurance policy in 2001 from Western that was an “extended replacement cost” policy.

That meant the policy was supposed to pay 25 percent more than the limits in various coverages in the policy. The policy also required that the insurance company had to first inspect the home and make a report, identifying the replacement cost.

In this instance, the inspector went to the home and concluded the replacement cost was actually \$40,000 more than the coverage specified in the policy. But the inspection occurred after the policy had been issued and the coverage limits were set.

Though the company had the report, it never changed the policy or informed the couple, said Craig Miller, the lawyer for the Majors.

The October 2003 fire destroyed everything the Majors had. Living in a trailer on their property, they began to try to work with the company but had poor results with the adjustor, Elsa Major said.

“I’m not sure that in the many months he had our case he even looked at our file,” she said.

It was only after hiring a lawyer in October 2004 that the company acknowledged that the inspection report said the coverage should be higher.

Miller said that the company paid the Majors some of what they were due under the policy before the trial but not all. He said Western was liable for contract breach because it did not pay the full policy limits as required. The jury awarded the Majors \$450,000 for emotional distress, and an additional