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Insurers lose court decision in fire dispute

By Barbara Woller
Staff Writer

The right of New Yorkers to sue their insurance carriers for punitive damages moved a step closer to reality after a court decision handed down yesterday said the attorney who won the case for a Westchester couple.

Attorney Jonathan Wilkofsky of Manhattan said the decision written by Judge Roger J. Miner of the U.S. Court of Appeals for the Second Circuit also gave New Yorkers another landmark right: for the first time a court ruled that they could recover attorney fees from their insurance company.

The case was brought by Jack and Jane Fox Riordan of New Castle against Nationwide Mutual Fire Insurance Co. of Columbus, Ohio, when their seven-room redwood house burned down in July 1989.

Representatives of the New York State Insurance Department and Nationwide could be reached for comment.

Commenting on yesterday's decision, Jack Riordan said, "We're just very very pleased ...We're looking forward to bringing the whole thing to a conclusion in the very foreseeable future."

Wilkofsky said that as a result of the decision Nationwide will have to pay for the actual fire damage and attorney fees, which total more than $372,000 plus interest.

Wilkofsky said the punitive damages had been set at $150,000 but that the issue cannot be fully resolved at this time because the law regarding punitive damages is uncertain in New York state.