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Brothers Win \$5M in Bias Suit

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Harinder Bains
The brothers, who are pillars of the community in the small town of Okanogan about 40 miles from the Canadian border, were subjected to racial taunts and work-related

Three Sikh brothers who operate a gas hauling business and seven gas stations in north-central Washington state have been awarded \$5 million by a federal jury for unlawful bias by the giant ARCO oil company.

of the community in the small town of Okanogan about 40 miles from the Canadian border, were subjected to racial taunts and work-related

prejudice by an ARCO supervisor and other workers in Seattle in mid-2000, according to court testimony.
Gagandeep, Harinder "Paul" and Gurinder Bains, who immigrated to the U.S. from Punjab in 1987 and started their first gas station in Okanogan about six years ago, are the owners of
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Sikh Brothers Awarded \$5M in ARCO Bias Case

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Flying B, a gas hauling and gas station operation.

After the Olympic Pipeline exploded in 1999, crippling gas distribution in Washington, Flying B signed a contract with ARCO to haul gasoline in their tanker truck from an oil refinery to the company's terminal in Seattle.

Harinder "Paul" Bains told *India-West* by phone from his home in Auburn, Wash., that a supervisor in Seattle and other ARCO workers subjected the brothers and their workers to racial insults, made them wait in longer lines, and forced them to stand in the rain while other drivers were afforded shelter.

The Flying B workers, who wear turbans and beards in accordance with their Sikh religion, claimed in testimony that they were called, among other things, "rag heads," "diaper heads," and "camel jockeys." In one case, an ARCO worker demanded that a Flying B employee clean up an oil spill with his turban.

Bains, 40, said he brought the

insults to the attention of a manager in Seattle and ARCO officials at the Los Angeles headquarters, but no action was taken. About four months after the abuse began, ARCO abruptly cancelled the contract without notice, which resulted in Flying B laying off nine workers. "They never gave us any reason. They just told me to get out of the office. They were so cruel."

In February 2001, a lawsuit was filed in U.S. District Court for the District of Washington under a little-used federal civil rights statute passed at the end of the Civil War that prohibits discrimination in contracts, Ed Budge of the Seattle law firm of Budge & Heipt, the Bains' legal firm, told *India-West*.

The arcane law was passed in its original form in 1865 as one of several statutes implementing the 13th Amendment's prohibition against slavery, and reenacted in its present form after ratification of the 14th Amendment, which guarantees equal treatment to all persons under law. The statute specifically prohibits discrimination in con-

tracting on the basis of race. The law firm has used it in other discrimination cases.

Budge said the brothers are very entrepreneurial. "To me, the case is all about reaffirming faith in the American dream." Since the Sikh family moved to the U.S. from India they have become American citizens, built a successful business and become respected members of the Okanogan community, he pointed out.

"We established ourselves in that community," Paul Bains said. "We were the first Sikhs to settle there."

Budge said ARCO at first claimed the Flying B contract was terminated for economic reasons, because there were too many tanker trucks on the route. But the oil company shifted its strategy after Sept. 11 and focused more on alleged safety violations as the trial drew nearer.

"This case took on added significance when several Sikhs living in the U.S. were assaulted and murdered in the wake of reaction to Sept. 11," said Budge.

"ARCO may have thought it

could capitalize on public fear by claiming the Bains brothers and their Sikh tanker drivers were 'unsafe,' even though there was no contemporaneous documentation of any violations in ARCO's records," he said.

ARCO attorneys claimed in court that the drivers lacked proper training and insurance, were seen speeding, running stop signs, smoking in cabs and failing to turn off engines while pumping fuel.

"We were so cautious about safety," Bains said. "They kept changing their story. There was not even one incident (of safety violations). They even said we smoked, but as you know that Sikhs don't smoke because of our religion!"

Budge said he had confidence the jury would see beyond the

safety claims. It did. After six days of testimony and four hours of deliberations, the jury June 18 awarded \$50,000 for compensatory damages and \$5 million for punitive damages.

An ARCO spokesman said the company is disappointed with the verdict and is considering an appeal. "ARCO does not tolerate discrimination in the workplace among its employees or its contractors, period," spokesman Dan Cummings told the *Seattle Post-Intelligencer*. Cummings said safety was the sole reason the contract was broken and the ARCO employee identified as the major culprit is undergoing company counseling.

Bains said the verdict was "a milestone for justice and for humanity. We need to tolerate each other."