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Federal Jury Awards \$5 Million in Punitive Damages Against ARCO For Discrimination

Sikh Brothers and Their Employees Were Treated Unlawfully Because Of Their Race

SEATTLE, June 20 /PRNewswire/ -- A federal jury has awarded a \$5 million verdict to a small business owned by three Sikh brothers in Washington state for unlawful discrimination they faced at the hands of the oil company ARCO.

The case was tried under a little-used federal civil rights statute passed at the end of the civil war that prohibits discrimination in contracts.

The brothers -- Gagandeep, Harinder Paul and Gurinder Bains -- are owners of Flying B, which runs several gas stations in the Okanogan area of Eastern Washington. After the Olympic Pipeline exploded in 1999, crippling gasoline distribution in Washington state, Flying B contracted with ARCO to haul gasoline in their tanker truck from the refinery in Cherry Point to the terminal in Seattle.

The Bains brothers are Sikhs, and two of the brothers wear the traditional turbans and beards required by their religion. According to the suit filed in February 2001 in U.S. District Court for the District of Washington, the brothers and their East Indian employees were harassed by ARCO employees. The brothers claimed they were called, among other things, "rag heads," "diaper heads," "mother-f---ing Indians" and "camel jockeys," while forced to use slower pumps, to wait in longer lines and to stand in the rain when other drivers were allowed to seek shelter from the weather.

According to the suit, the brothers complained to the ARCO manager in Seattle and, ultimately, to ARCO headquarters in Los Angeles, but nothing was done about the treatment they and their employees received. The brothers stated that after four and a half months of this treatment, ARCO suddenly cancelled Flying B's contract without notice. In turn, Flying B was forced to lay off nine employees once the work for ARCO was cut off.

"This is a great victory for the American dream," said Erik Heipt, of Budge & Heipt, who, along with his partner Ed Budge, represented the Bains brothers. "Our clients moved here from India 15 years ago to escape religious persecution. Since then, they've become American citizens, built a successful business and are respected members of the Okanogan community. They were grossly mistreated by ARCO, and the laws of their adopted country came through for them."

Although ARCO initially claimed that the Flying B contract was terminated for economic reasons, because there was an oversupply of tanker trucks on the route, the petrochemical giant changed its story as the case progressed, focusing more and 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 September 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. We had confidence that the jury would see through that."

The jury did not agree with ARCO's version of the story and determined that the company had discriminated against Flying B because of the race of the Bains brothers and their employees. The jury's award included \$50,000 for compensatory damages and \$5 million for punitive damages.

The arcane law, 42 USC section 1981, was passed in its original form in 1865, after the end of the Civil War, as one of a family of statutes implementing the Thirteenth Amendment's prohibition against slavery. The law was reenacted in its present form following ratification of the Fourteenth Amendment, which guarantees equal treatment to all persons under

the law. The statute specifically prohibits discrimination in contracting on the basis of race. For most of the 20th century, this statute was not widely used, but in the past few years it has been rediscovered by attorneys seeking to defend the civil rights of their clients.

Budge & Heipt is a two-person civil rights firm based in Seattle. The firm was founded four years ago by Ed Budge, who was inspired by the book "A Civil Action," and Erik Heipt. Budge & Heipt concentrates on cases where significant societal issues are at stake. In 1998, after obtaining a favorable jury verdict, the firm

reached a confidential settlement on behalf of six employees of the King County Housing Authority who had been retaliated against for reporting gross misconduct by top officials of the agency. Last year the firm obtained an \$8 million verdict against an Oregon State Patrol officer who shot a woman in the back on a remote highway in southern Oregon.

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