

OMAK-OKANOGAN COUNTY

# THE CHRONICLE

## Flying B wins \$5 million discrimination award

By Al Camp  
Chronicle staff

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SEATTLE — Three Sikh brothers who operate a small gasoline business in Okanogan County recently were awarded a \$5 million verdict for unlawful racial discrimination by oil company ARCO.

The case was tried June 11-18 in federal District Court in Seattle 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 two gas stations in Okanogan, two in Omak and one in Oroville.

After the Olympic Pipeline exploded in 1999 near Bellingham, crippling gasoline distribution in Washington state, Flying B contracted with ARCO to haul gasoline in its tanker truck from the refinery in Cherry Point in Ferndale to a terminal in Seattle, said an announcement from the Bains' defense team about the case.

The Bains brothers, originally from India, are Sikhs and two of the brothers wear the traditional turbans and beards required by their religion, the announcement explained.

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 many derogatory names, were forced to use slower pumps, had to wait in longer lines and were required to stand in the rain when other drivers were allowed to seek shelter from the weather.

A spokesman for ARCO, which has since merged with BP, told The Associated Press that safety violations, not discrimination, led to the company dropping Flying B.

Dan Cummings also acknowledged one employee in Seattle acted improperly toward the Bains brothers' company. The employee was required to undergo counseling, AP reported.

The company is considering an appeal of the verdict, AP reported.

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 alleged that after four and a half months of such treatment, ARCO suddenly canceled Flying B's contract

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without notice.

The Bains brothers haul their own gasoline into Okanogan County.

"Transporting our own is a way we can save some money and pass on that savings to the customer," said Gagandeep Bains in a telephone interview from Seattle.

With the end of the ARCO contract, Flying B was forced to lay off nine employees, several of whom live in Okanogan, the brothers alleged.

"It was terrible, all of a sudden we have to let them go," said Gagandeep Bains, who was in Seattle June 20 giving media interviews after the verdict was announced. "For us it was really hard to do."

He praised the several dozen supporters from Okanogan County who stayed in Seattle and attended every one of the trial's six days.

"I want to give them special thanks for this," he said.

"This is a great victory for the American dream," said Erik Heipt of Budge and 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," he said. "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, according to the Bains brothers' team.

"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. "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, said the announcement.

"It sends a big message," said Gagandeep Bains. "They (ARCO) just did not care. I think they are too big."

"Until the last day, the trial was going on, they were thinking too big and nobody can touch them," he said. "It is good what happened. We are extremely happy. It will give them a good message that they have to stop this kind of stuff."

The jury took less than four hours to deliberate before awarding \$50,000 for compensatory damages and \$5 million for punitive damages.

The law, was passed in its original form in 1865, after the end of the Civil War, as one of a family of statutes implementing the 13th Amendment's prohibition against slavery.

The law was re-enacted in its present form following ratification of the 14th Amendment, which guarantees equal treatment to all persons under the law. The statute specifically prohibits discrimination in contracting on the basis of race.