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Sikh brothers win \$5 million in bias suit against Arco

Verdict 'strengthened confidence' in American dream for 3 businessmen

BY SAM SKOLNIK
P-I reporter

By all other measures, Harinder, Gurinder and Gagandeep Bains had successfully integrated into life in Okanogan since immigrating to the United States in 1987.

The brothers, Sikhs who had fled religious persecution in their native India, planted roots in the small north-central Washington city, became U.S. citizens and developed a gas-station and gasoline-hauling business called Flying B.

But in March 2000, soon after the business entered into a contract with the Atlantic Richfield Co. to haul gasoline from the Arco Cherry Point refinery in Ferndale to a gasoline tank farm on Harbor Island, the Bainses say they experienced their first taste of raw ethnic discrimination.

The brothers and their East Indian employees were routinely harassed by Arco employees, according to a civil rights suit filed in U.S. District Court in Seattle. They called them things like "rag heads" and "camel jockeys"; forced them to

use slower pumps and to stand in the rain while other drivers did not; and in one case, demanded that a Flying B employee clean up an oil spill with his turban, Sikh headwear of high religious importance.

After the Bainses complained to Arco superiors in Seattle and at Los Angeles headquarters about their treatment, Arco severed their contract without notice.

On Tuesday, after a six-day trial, a Seattle jury deliberated just four hours before awarding the brothers \$5 million.

"From Day One, we experienced we were not welcome," Harinder "Paul" Bains, 40, said.

The verdict "strengthened our confidence" in the American dream of religious freedom, he said. "We're very comfortable with the process. The system works."

An Arco spokesman said company officials were disappointed with the verdict and were weighing an appeal.

"Arco does not tolerate discrimination in the workplace among its

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employees or its contractors, period," said spokesman Dan Cummings. The Arco employee fingered as the major culprit went into company counseling, he said.

Arco hired Flying B and 10 other companies to haul gas between its refinery and Seattle after the Olympic pipeline explosion in Bellingham in June 1999.

Cummings said that "our concern always was about safety." There were several Arco concerns about the safety of Flying B drivers, he said, which was the sole reason the contract was broken.

In court papers, Arco attorneys claimed Flying B drivers lacked proper training and insurance, were seen speeding, tailgating, running stop signs, smoking in cabs and failing to turn off engines while pumping fuel.

"When these behaviors persisted despite repeated warnings, Arco's terminal manager made the decision to suspend Flying B from loading or unloading fuel at Cherry Point or Harbor Island," Arco attorneys wrote.

The Bainses denied Arco's safety claims during the trial. Their attorneys said the allegations were meant to divert the jury from the harsh truth of ethnic discrimination.

The case had a greater symbolic weight given the times we live in, the Bainses' lawyers argued.

"This case took on added significance when several Sikhs living in the United States were assaulted and slain in the wake of Sept. 11," said Se-



GILBERT W. ARIAS / P-I

Harinder "Paul" Bains, with his son, Ikjot Bains at left, is one of three Sikhs brothers who were awarded \$5 million in damages in a suit against Arco for discrimination after their contract to haul gasoline was abruptly canceled.

attle civil rights attorney Ed 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 on any violations in Arco's records. We had confidence

that the jury would see through that."

The jury awarded the Bainses \$50,000 in compensatory damages and \$5 million in punitive fines. During trial, the Bainses attorneys asked for a little more than \$8 million, equaling one day's average worth of net profits for Arco in one recent

year.

The company, purchased by BP in 2000, netted \$3 billion that year, the lawyers said.

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