

Drivers win right to pursue discrimination case against FedEx

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BOSTON --Four Arab-American drivers who said they were harassed by their supervisors at FedEx Corp. -- including being called "terrorists" and asked if they were sending money to Osama bin Laden -- won the right on Monday to pursue their case.

FedEx had argued that the four, who worked for the company's ground package division, were independent contractors and weren't eligible for protections under the state's anti-discrimination laws.

The Massachusetts Commission Against Discrimination denied that objection saying the drivers were employees. The lawsuit claims the company's ground package unit and two of its terminal supervisors engaged in a pattern of racial, ethnic and religious discrimination.

The four foreign-born drivers are Massachusetts residents and practicing Muslims.

One of the drivers, Loay El-Dagany, a native of Kuwait, said he was verbally harassed by his supervisor David Goyette who called him a "terrorist" repeatedly and threw packages at him.

In one instance, Goyette asked him if he was planning to send money to Osama bin Laden or al-Qaida, according to El-Dagany said. When he complained about route changes, Goyette asked him not to get angry and "blow up my car," according to El-Dagany.

FedEx spokesman Perry Colosimo declined to comment on the merits of the case, saying it hasn't been heard yet by the state anti-discrimination panel.

"FedEx Ground doesn't tolerate behavior that violates our policy with regards to discrimination," Colosimo said. "We take appropriate disciplinary action against those who break that policy, including termination."

Colosimo said Goyette no longer works for the company, but declined to say on what terms he left. The second supervisor named in the complaint, Mike Melnyk, still works for the company.

Shannon Liss-Riordan, an attorney representing the four men, said FedEx abdicated its responsibility to its drivers.

"By misclassifying their drivers as independent contractors, FedEx has attempted to keep its drivers from asserting their rights as employees," she said. "One of those very important rights in this country is the right to be free from discrimination."

Last year, a California jury awarded \$61 million to two FedEx Ground drivers of Lebanese descent who claimed a manager harassed them with racial slurs for two years.

The two drivers said they were called "terrorists," "camel jockeys" and other epithets in 1999 and 2000 by a terminal manager at the FedEx Ground facility where the two men were

contract drivers.

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