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Figure 1: Schematic representation of the experimental design. The figure shows a timeline of events for three groups: Control, Sham, and Laser. The Control group receives a laser treatment at 10 weeks. The Sham group receives a laser treatment at 10 weeks. The Laser group receives a laser treatment at 10 weeks. The timeline includes a 10-week period before the laser treatment, followed by a 10-week period after the laser treatment. The groups are compared at 10 weeks and 20 weeks.

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letter to Carrier indicating that Claimant should be returned to service based on an examination by his doctor in July of that year. Carrier did not recognize Claimant's ability to return to work and failed to reinstate him at that time. Subsequently, in October of 1986 Claimant again was evaluated by his own physician who stated in a letter that Claimant had no physical disabilities which would preclude him from any employment. Ultimately he was advised by Carrier that he was not considered to be an employee due to the past circumstances involved in his situation.

Petitioner argues principally that Carrier violated the Agreement by not reinstating Claimant to service. Indeed if Carrier doubted his ability to return to service and the medical department concurred in this opinion, according to the Agreement, a three doctor panel should be established to assess whether indeed Claimant had the physical ability to return to full employment. This Carrier refused to do. According to Petitioner, Claimant in no way relinquished his right to employment based on the award he received for the injuries sustained in 1975.

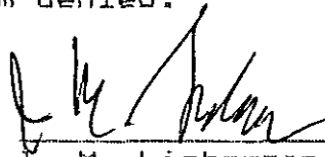
Carrier argues that Claimant simply showed no interest in returning to his employment for the period from 1975 until 1984. Furthermore, he abandoned that approach in 1984 and again two years later made a second attempt at reemployment.

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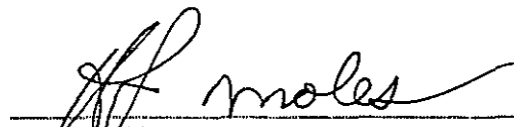
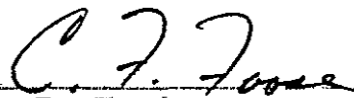
As the Board views it Claimant, if indeed he had rights to return to work after the jury verdict of 1975 (and there is some dispute with respect to the testimony at that trial), it is evident that he had been silent for approximately nine years following that event. It must be concluded objectively Claimant abandoned his position because of the lack of any contact with Carrier for a period of at least nine years following the jury trial. There was no indication of what he did during that period of time or whether indeed he was employed or could have been employed by Carrier. There is no question but that this matter involves a job abandonment. Therefore, the claim must be denied.

AWARD

Claim denied.



I. M. Lieberman, Neutral-Chairman

H. L. Moles.
Carrier MemberC. F. Foose,
Employee Member

San Francisco, California

May, 1988

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