Liberia Telecommunications Corporation (LTC) by & thru its Managing Director, Mr. Charles B. Roberts Jr. of Monrovia, Liberia APPELLANT Versus **John Kollie**, Her Honor **Comfort S. Natt**, Judge, National Labour Court, and **Reginald W. Doe**, Hearing Officer, Ministry of Labour, Monrovia, Liberia APPELLEES

APPEAL. RULING REVERSED

HEARD: APRIL 26, 2005 DECIDED:

MR. JUSTICE GREAVES DELIIVERED THE OPINION OF THE COURT.

The history of this case reveals that John Kollie, hereinafter known and referred to as Co-Appellee, an employee of the Liberian Telecommunications Corporation (LTC), hereinafter known and referred to as the Appellant, instituted an Action of Unfair Labour Practices against Appellant at the Ministry of Labour on the 13th day of April, A.D. 1994. In his complaint to the Ministry, Co-Appellee Kollie alleged that in early 1992, he sustained a serious eye injury while on official duty while in the employ of Appellant; as a result, his left eye is not functional, thus requiring a *"graft"*. He further alleged that following his injury Appellant -sent him to a local clinic, the Atlantic Eye Associates, INC., which recommended that he be sent abroad, after examination, for surgery owing to the fact that "facilities for such surgery are lacking in Liberia". Predicated on this recommendation, Appellant Management sent Co-Appellee Kollie along with another injured employee to the Ivory Coast for treatment where doctors at the clinic recommended that the two (2) employees be sent abroad', with emphasis being placed on Paris, France in the case of the Co-Appellee Kollie. Co-Appellee Kollie further alleged in his complaint that the Appellant Management refused to send him to Paris, France but instead sent the other injured employee abroad for treatment. Co-Appellee then requested the Ministry to cite the Appellant to show cause why it should not be made to send him to Paris in order to restore *"normalcy"* to his eye as his condition is rapidly deteriorating.

Appellant Management contended at the hearing at the Ministry of Labour that it had no obligation to send Co-Appellee Kollie to Paris for treatment as it was the sole obligation of the National Social Security and Welfare Corporation (NIASSCORP) under its Employment Injury Scheme which all its employees, including the Co-Appellee, is insured under; that the medical attention given the Co-Appellee was purely on humanitarian grounds and not due to any legal obligations to him. Appellant prayed that NASSCORP be joined as a party to the complaint before the

Ministry of Labour.

The Labour Ministry on the 27th day of October, A.D. 1997 ruled that Appellant Management is liable to send Co-Appellee John Kollie to Paris, France where he would benefit from eye surgery as recommended by Dr. Ndoli Boni Philippe. The Ministry ruled further that under the principle of estoppel, Appellant is barred from refusing to continue providing medical care to Co-Appellee Kollie, its employee.

Appellant Management excepted to the Ruling of the Hearing Officer and filed an eight (8)) Count Petition for Judicial Review at the National Labour Court of Montserrado County. The Labour Judge after hearing arguments on the Petition and Returns, Affirmed the Ruling of the Hearing Officer, stating for reason that the Appellant Management having commenced the medical treatment of Co-Appellee Kollie, it is bound by the Labour Practices Law to continue in total the complete medical treatment of Co-Appellee's eye until his sight is restored as recommended by the physicians and Appellant Management is to send Co-Appellee to Paris for the needed surgery, the Labour Judge concluded her Ruling. The Appellant excepted to said Ruling and announced an Appeal to this; Court, which was granted, thus this Appeal before us.

The lone issue as we 'see is: whether or not the National Social Security and Welfare Corporation is absolved of its legal obligations to Co-Appellee John Kollie under the Employee Injury Scheme by virtue of Appellant Management taking the initiative to treat him initially when he got injured, thus shifting liability to Appellant Management.

Appellant Management contends that the National Social Security and Welfare Corporation (NASSCORP) is responsible for medical care which is one of the benefits provided for under the Employment Injury Fund. Appellant further contends that its action to send Co-Appellee John Kollie for medication was due to the urgency of the matter and for humanitarian reasons, but by law it is the responsibility of the NASSCORP to provide medical care and that at no time did Appellant attempt to assume the responsibility of NASSCORP. Appellant Management argued further also that a letter dated May 26, 1994, addressed to Dr. Togboh of the Togboh Eye Clinic and signed by one James W. Giahyue, Director of Region I of NASSCORP is an admission of the responsibility of NASSCORP to provide medical care and other benefits under the Employment Injury Scheme to Co-Appellee John Kollie and the Appellant Management is under no legal obligation to treat the Co-Appellee.

The Appellees on the other hand contend that Appellant Management is estopped, barred and precluded from disclaiming responsibility for providing further medical treatments for Co-Appellee Kollie, in that, the Appellant assumed sole responsibility for medical treatment of the Co-Appellee from the very inception of his injury without reference to the National Social Security and Welfare Corporation (NASSCORP) and therefore it is now estopped, from disclaiming further responsibility for his medical care. Appellees further contend that NASSCORP cannot be held responsible for the Co-Appellee's medical treatment when no previous arrangement was made by it for such treatment.

The facts show that following Co-Appellee Kollie's injury in early 1992 and after Appellant Management had sent him to a local clinic, Appellant wrote a letter to the Director General of the National Social Security and Welfare Corporation (NASSCORP) on the 13 th day of May, A.D. 1993 informing him of the Co-Appellee and another employee's injuries, which we quote below:

"May 13, 1993
The Director-General National Social Security anal Welfare Corp. Monrovia, Liberia

Dear Director-General:
We write to inform you that two of our technicians, messrs. Quincy Menduah and John Kollie sustained injuries in their eyes on April 29, 1988 and May, 1992 respectively. The incident occurred while they were performing repair works on the field. We are sending these cases to National Social Security to handle.

Enclosed are the documents relative to the accidents.
Regards.
Very Truly Yours,
Joseph K. Titus
PERSONNEL MANAGER
cc: Managing Director
DMD/Administration
DMD/Technical Services
DMD/Rural Telecommunications Comptrolle

Encl:
On the 26th day of May, A.D. 1994, a letter was written to Dr. Togboh of the Togboh Eye Clinic by James W. Giahyue, Director of Region 1, National Social

Security and Welfare Corporation (NASSCORP) which we quote below:

[Please see pdf file for contents of letter]

Section 89.33 of the Employment Iniury Scheme being administered by NASSCORP under which Co-Appellee Kollie is insured, *MEDICAL CARE;* states that: "(1) an insured person whose condition requires, as a result of ennployment injury, medical treatment and attendance shall be entitled to receive medical benefit; and (2) such medical benefit may be given either in the form of out-patient treatment and attendance in a hospital or dispensary, clinic or other institution or treatment as in-patient in hospital or other institution." The Employment Injury Scheme obligates NASSCORP to underwrite medical treatment of employees injured while in tthe employ of institutions covered by said Scheme which Scheme in essence substitutes the workman compensation provision of the Labour Practices Law.

We are of the opinion that the National Social Security and Welfare Corporation (NASSCORP) is not absolved of its legal obligations to Co-Appellee John Kollie under the Employment Injury Scheme by virtue of Appellant Management taking the initiative to treat him initially when he got injured. Further, the letter from Mr. James W. Gaihyue, Director, Region I, of NASSCORP to Dr. Togboh requesting that he be examined so that it may obtain a full medical report in order to make the appropriate decision regarding payment of benefit to him, coupled with NASSCORP acknowledging the fact that it (NASSCORP) is aware that Appellant Management had initially sent Co-Appellee for treatment without questioning same, is an admission that NASSCORP is responsible for the medical treatment of Co-Appellee Kollie. *Chapter 25, Section 25.8 page 200, 1LCL Revised Admission: 1. Admissibility In General.* "All admissions made by a party himself or by his agent acting within the scope of his authority are admissible. Every agent for the conduct of a cause shall have authority to make admissions in that cause. The admissions of every other agent in any matter under his control as agent shall be admissible." Therefore Appellees contention that Appellant Management taking the initiative to treat Co-Appellee Kollie obligates her and she is estopped from discontinuing with the treatment of the Co-Appellee at this junction/period is untenable.

This Court also is of the opinion that the doctrine of Estoppel will not hold against Appellant Management in the instant case. Estoppel, as defined by BLACK'S LAW DICTIONARY (5TH EDITION), Page 494, means "that Party is prevented by his own acts from claiming a right to detriment of other Party who was entitled to rely on such conduct has acted accordingly". In the instant, case NASSCORP admitted

that it is responsible for the treatment and other medical benefits of Co-Appellee Kollie in a letter which we have quoted earlier in this Opinion; and further the very employee Injury Scheme Contract clearly obligates NASSCORP to underwrite Co-Appellee's medical benefits in no uncertain terms. We therefore do not see how the "Estoppel doctrine" can be used by NASSCORP to its advantage in the instant case when it has admitted that it is obligated to the Co-Appellee and has taken some step to settle said obligation, as per the mentioned letter.

In view of the foregoing facts and circumstances, it is our considered opinion that the National Social Security and Welfare Corporation (NASSCORP) is not absolved of its legal obligations to Co-Appellee John Kollie under the Employment Injury Scheme by virtue of Appellant Management taking the initiative to treat him initially when he got injured. NASSCORP is responsible to treat the Co-Appellee as well as pay him all benefits due him in accordance with the terms of the Employment Injury Scheme. The Ruling of the Judge of the National Labour Court is hereby Reversed. The Clerk of this Court is hereby ordered to send a mandate to the National Labour Court ordering the Judge Presiding therein to resume jurisdiction over the case and enforce this Judgment. COSTS *against Appellees. AND IT IS HEREBY SO ORDERED.*
RULING REVERSED.

COUNSELLOR SAMUEL R. CLARKE OF THE COOPER AND TOGBAH LAW OFFICES APPEARED FOR APPELLANT.

COUNSELLOR SYLVESTER S. KPAKA OF THE J. D. GORDON LAW FIRM APPEARED FOR APPELLEES.