

refer to Triconex and Upchurch collectively as “Triconex.”

DISCUSSION

¶ 14. Eight issues are before this Court: (1) whether the factual determinations made by the trial court are manifestly wrong; (2) whether the Mississippi Uniform Commercial Code is applicable; (3) whether obtaining assistance from Greenwood during on-site testing of the control systems was a breach of contract by Triconex; (4) whether Greenwood's providing personnel and instrumentation for on-site testing waived the contractual requirement for Triconex to provide all personnel and instrumentation; (5) whether Greenwood can recover on its negligence theory; (6) whether attorneys' fees are allowed by contract; (7) whether there was sufficient proof as to the reasonableness of attorneys' fees; and, (8) whether Greenwood met the legal prerequisites to be entitled to an award of prejudgment interest.

[1][2][3][4][5] ¶ 15. Questions of law are reviewed by this Court using a *de novo* standard. *A & F Props., LLC v. Madison County Bd. of Supervisors*, 933 So.2d 296, 300 (Miss.2006); *Harrah's Vicksburg Corp. v. Pennebaker*, 812 So.2d 163, 170 (Miss.2001). On the other hand, “[w]henver this Court considers on appeal a trial judge's findings of fact, we appropriately afford deferential treatment. Even though we quite often review circuit court cases based upon judgments entered after a jury trial, whenever we are called upon to consider the findings of fact of a circuit judge sitting without a jury, that circuit judge is entitled to the same deference concerning his/her findings of fact as is afforded to a chancellor, who almost always sits, without a jury.” *City of Greenville v. Jones*, 925 So.2d 106, 109 (Miss.2006) (citing *City of Jackson v. Perry*, 764 So.2d 373, 376 (Miss.2000); *Puckett v. Stuckey*, 633 So.2d 978, 982 (Miss.1993)). In other words, if the trial judge's findings of fact are supported by substantial, credible and reasonable evidence, we must afford deference to these findings on appeal, and thus, we will not disturb the trial judge's findings of fact “unless they are manifestly wrong, clearly erroneous or an erroneous legal standard was applied.” *Perry*, 764 So.2d at 376 (citing *Puckett*, 633 So.2d at 982; *1108*Bell v. City of Bay St. Louis*,

467 So.2d 657, 661 (Miss.1985)). This Court reviews a trial judge's award of attorneys' fees and prejudgment interest for abuse of discretion. *Microtek Med., Inc. v. 3M Co.*, 942 So.2d 122, 130 (Miss.2006); *Mabus v. Mabus*, 910 So.2d 486, 488 (Miss.2005) (citing *Mauck v. Columbus Hotel Co.*, 741 So.2d 259, 269 (Miss.1999); *Bredemeier v. Jackson*, 689 So.2d 770, 778 (Miss.1997)).

¶ 16. We will restate the issues for clarity during the course of our discussion.

I. WHETHER THE FACTUAL DETERMINATIONS MADE BY THE TRIAL COURT ARE MANIFESTLY WRONG.

[6] ¶ 17. Concerning this first issue, Triconex argues, *inter alia*, that the trial judge erroneously determined that Shaw took his speed readings off the auxiliary shaft, rather than directly off the turbine shaft, during the testing conducted on November 10, 1995. On the other hand, Greenwood argues that the evidence is not conclusive as to whether Shaw took his readings off the auxiliary shaft or directly off the turbine shaft. However, Greenwood argues that even if the trial judge did err, this issue is not controlling as to whether Triconex breached the contract.

¶ 18. After denying Triconex's Motion to Amend the Findings of Fact, Judge Hines stated in his Order:

Upchurch and Triconex in their memorandum in support of the motion repeat from the transcript the following testimony of Jerry Shaw:

Q. And where did you locate yourself with the strobe light?

A. It's a little compartment behind the accessory gear box. Between there and the turbine.

Q. Was there anybody who told you to select that place?

A. Well, I was-I don't remember in-who particular. I suppose-Hamid, I suppose. They wanted to get on