

30k984 Costs and Allowances

30k984(5) k. Attorneys' Fees. [Most Cited Cases](#)

## Cases

The Supreme Court reviews a trial judge's award of attorney fees and prejudgment interest for abuse of discretion.

### [6] Electricity 145 🔑8.4

#### 145 Electricity

145k8.4 k. Generating Facilities in General. [Most Cited Cases](#)

Evidence was sufficient to support trial court's finding in breach of contract action for damages stemming from the failure of control system for combustion turbine that electric utility employee took his turbine speed readings off an auxiliary shaft rather than directly off of the turbine shaft and that employee was competent to take speed readings using strobe instrument; testimony indicated that the auxiliary shaft turned at a different speed than the turbine shaft, a speed that matched the incorrect turbine speed indicated by the faulty control system.

### [7] Sales 343 🔑3.1

#### 343 Sales

343I Requisites and Validity of Contract

343k3 Sale Distinguished from Other Transactions

343k3.1 k. In General. [Most Cited Cases](#)

Under the mixed transactions test, Uniform Commercial Code did not apply to breach of contract case involving defective combustion turbine control system, where only 40% of the contract dealt with hardware, while 60% of the contract dealt with services, including the testing and design of the turbine.

### [8] Electricity 145 🔑8.4

#### 145 Electricity

145k8.4 k. Generating Facilities in General. [Most Cited Cases](#)

Under the terms of contract, installer of combustion turbine control system for electric utility had the burden of providing all labor, tools, and technical assistance for

the testing of the control system.

### [9] Contracts 95 🔑305(1)

#### 95 Contracts

95V Performance or Breach

95k305 Waiver of Defects and Objections

95k305(1) k. In General. [Most Cited Cases](#)

To determine the point at which waiver of a contractual provision occurs, the court should look to the actions of the relevant party after that party has sufficient information to be on notice of the alleged deviation from the contractual duty; if, after acquiring knowledge of the deviation from a known right articulated in the contract, a party fails to insist on its contractual rights, or acts inconsistently with such rights, then that party waives the right to require such performance.

### [10] Electricity 145 🔑8.4

#### 145 Electricity

145k8.4 k. Generating Facilities in General. [Most Cited Cases](#)

Electric utility did not waive the contractual requirements that installer of combustion turbine control system provide all personnel and instrumentation for testing system when it provided a utility employee to assist the installer; under the terms of the contract, utility employees could assist in the testing, but the installer had the sole responsibility for the testing.

### [11] Costs 102 🔑194.32

#### 102 Costs

102VIII Attorney Fees

102k194.24 Particular Actions or Proceedings

102k194.32 k. Contracts. [Most Cited Cases](#)

Where a contractual provision concerning the award of attorney fees is at issue, the Supreme Court will apply its rule concerning the interpretation of any contract, which is to enforce a contract when its terms are clear and unambiguous.

### [12] Costs 102 🔑194.32

#### 102 Costs

102VIII Attorney Fees