

Upchurch Plumbing, Inc. v. Greenwood Utilities
Com'n
Miss.,2007.

Supreme Court of Mississippi.

UPCHURCH PLUMBING, INC. and Triconex Sys-
tems, Inc.

v.

GREENWOOD UTILITIES COMMISSION.
No. 2005-CA-01689-SCT.

Aug. 30, 2007.

Background: Electric utility brought breach of contract action against installer and manufacturer of control system for combustion turbine. The Circuit Court, Leflore County, [W. Ashley Hines](#), J., entered judgment in a bench trial in favor of utility. Defendants appealed.

Holdings: On motion for rehearing, the Supreme Court, [Carlson](#), J., held that:

- (1) evidence was sufficient to support trial court's finding of fact that electric utility employee took his turbine speed readings off an auxiliary shaft;
- (2) Uniform Commercial Code did not apply;
- (3) under contract, installer had the burden of providing necessary labor and equipment to test control system;
- (4) utility did not waive any contractual requirements;
- (5) utility was entitled to attorney fees; and
- (6) utility's failure to state in its complaint a specific date from which prejudgment interest was allegedly due did not relieve installer from being responsible for prejudgment interest, overruling *Preferred Risk Mut. Ins. Co. v. Johnson*, 730 So.2d 574, and abrogating *Microtek Med., Inc. v. 3M Co.*, 942 So.2d 122, *Wirtz v. Switzer*, 586 So.2d 775, *Thompson Mach. Commerce Corp. v. Wallace*, 687 So.2d 149, *Simpson v. State Farm Fire & Cas. Co.*, 564 So.2d 1374.

Affirmed.

[Graves](#), J., concurred in part and dissented in part.

[1] Appeal and Error 30 🔑893(1)

30 Appeal and Error

30XVI Review

30XVI(F) Trial De Novo

30k892 Trial De Novo

30k893 Cases Triable in Appellate Court

30k893(1) k. In General. [Most Cited](#)

[Cases](#)

Questions of law are reviewed by the Supreme Court using a de novo standard.

[2] Appeal and Error 30 🔑1008.1(1)

30 Appeal and Error

30XVI Review

30XVI(I) Questions of Fact, Verdicts, and Findings

30XVI(I)3 Findings of Court

30k1008 Conclusiveness in General

30k1008.1 In General

30k1008.1(1) k. In General. [Most](#)

[Cited Cases](#)

Whenever the Supreme Court considers on appeal a trial judge's findings of fact, it appropriately affords deferential treatment.

[3] Appeal and Error 30 🔑1008.1(1)

30 Appeal and Error

30XVI Review

30XVI(I) Questions of Fact, Verdicts, and Findings

30XVI(I)3 Findings of Court

30k1008 Conclusiveness in General

30k1008.1 In General

30k1008.1(1) k. In General. [Most](#)

[Cited Cases](#)

Whenever the Supreme Court is 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.