



# AN INTRODUCTION TO THE DOCTRINE OF QUANTUM MERUIT

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## Newsletter

### ***Editor's Note***

Integrated Legal Consultants (ILC) was founded in April 2007, in Accra, Ghana, to offer dedicated and innovative corporate legal services while ensuring that the Ghanaian and West African business community and our network of international clients benefit from the highest quality of corporate and commercial legal services that the Practice provides.

As part of this vision, the firm has introduced the publication of newsletters on legal and economic issues that would be of interest to clients and equally affect their transactions. This is our 17<sup>th</sup> edition.

The amount of money to be paid to an individual for work done or service provided where there is no existing contract, or where there is uncertainty as to the amount payable for that service can be a cause for concern for the affected persons. Thus, the doctrine of "Quantum Meruit" is a way in which the courts determine what should be paid for labour provided in such circumstances.

In this issue, we take a look at the doctrine of quantum meruit, how it arises and elements of what need to be established by a claimant to recover unpaid wages in quantum meruit.

We hope you find it informative and educative. Your feedback is welcome.

*Esohe Olajide*

**Editor**

*Olusola Ogundimu*

**Editor-In-Chief**



## AN INTRODUCTION TO THE DOCTRINE OF QUANTUM MERUIT

### What is Quantum Meruit

The term "Quantum Meruit" means a reasonable sum of money to be paid for services rendered or work done when the amount due is not stipulated in a legally enforceable contract. It establishes the amount of payment for services when there is no existing contract or when there is uncertainty as to the amount expected for the labour executed but done under circumstances when the payment would be due at the time of services.

Per the Black's Laws Dictionary (8<sup>th</sup> Edition), quantum meruit which literally means "*as much as he deserves*" is the reasonable value of services; damages awarded in an amount considered reasonable to compensate a person who has a quasi-contractual relationship. It also means "*as much as he has earned*" or "*what the job is worth*". In most cases, it denotes a claim for a reasonable sum in respect of services or goods supplied to the defendant.

In contract law, quantum meruit is a doctrine that implies a promise or agreement to pay a fair sum for labour and provided materials. This doctrine goes into effect even if there is doubt as to the amount due for the work done. This would occur if there were no specific lawfully enforceable agreement between parties and payment is in arrears.



Essentially, quantum meruit is an action to recover payment for the reasonable value of services performed. It is used in various circumstances where the court awards a money payment that is not pre-determined, by reference to a contract but is subject to what is said in the subsequent paragraphs.

A claim for quantum meruit cannot arise if the parties have a contract to pay an agreed sum. In such circumstances, the parties' relationship is governed by the law of contract.

A claim for quantum meruit may arise where the parties:

- Have not agreed to a contract, or there is a so-called quasi-contract. For example, the parties may have agreed on some of the contractual terms but may have failed to reach an agreement on an essential term, such as price.
- Have not fixed a price for the services or goods supplied.
- Have an agreement to pay a reasonable sum for the services or goods supplied.
- Have agreed on a scope of work under the original contract and the work carried out falls outside that scope.

Quantum meruit claims are based on the law of restitution; specifically, quantum meruit claims **flow from the principle of unjust enrichment**. For there to have been unjust enrichment, three things must be established.

- Firstly, the principal must have been enriched by the receipt of a "benefit".
- Secondly, that benefit must have been gained "at the contractor's expense". And,
- Thirdly, it would be "unjust" in the circumstances to allow the principal to retain the benefit.

### HOW QUANTUM MERUIT ARISES

In a quantum meruit claim the court awards a money payment that is not pre-determined by reference to a contract (as already indicated). **That is not to say, however, that a quantum meruit claim cannot be made where there is a contract in place.** In this regard, quantum meruit claims can be made where:

- a. There is a contract, but no price is fixed by that contract. E.g., where work is done under an express or implied contract, and the contract fixes no price or pricing mechanism for that work, the claimant is entitled to be paid a reasonable sum for his labour and services.
- b. There is a quasi-contract. This may arise where, for example, the claimant agrees to start work while still negotiating with the principal as to, at least, the essential terms of the contract and those negotiations subsequently fail. Generally, the cases support the proposition that, in such circumstances, the principal has an obligation to pay a reasonable sum for the work done.
- c. Work outside a contract. Where there is a contract for specific work, but the claimant does work outside the contract at the principal's request, the claimant is entitled to be paid a reasonable sum for that work. In essence, an implied contract forms the basis of this entitlement.
- d. Work under a void, unenforceable or terminated contract. Where there is a contract, but it is void, either for uncertainty or for any other reason or where the contract is rendered unenforceable by operation of statute (as was held in *Scarisbrick V. Parkinson* (1869) 20 L.T. 175) or

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where the contract has been repudiated by the principal, the claimant may be entitled to claim on a quantum meruit for the work or services.

If a person sues for payment for services in such circumstances the judge will calculate the amount due based on time and the usual rate of pay or the customary charge, based on "quantum meruit" by implying a contract existed.



### ELEMENTS OF QUANTUM MERUIT

The reality is that courts have not provided clear guidelines about what may be recovered under the broad heading of a "**reasonable sum**" determined by reference to a fair commercial rate. Accordingly, the peculiar facts of any particular case are likely to have a greater influence on the outcome of a case than anything else.

In ***Leibowitz v. Cornell Univ.*, 584 F.3d 487, n.9, 509 (2d Cir. 2009)**, it was held that to recover in quantum meruit under New York law, a claimant must establish-

1. The performance of services in good faith;

2. The acceptance of the services by the person to whom they are rendered;
3. An expectation of compensation therefor; and
4. The reasonable value of the services.

**Also, in Bowden v. Grindle, 651 A.2d 347, 350-51 (Me.1994)**, it was established that a valid claim in quantum meruit requires:

1. That services were rendered to the defendant by the plaintiff;
2. with the knowledge and consent of the defendant; and
3. under circumstances that make it reasonable for the plaintiff to expect payment."

In addition, the court in **Hermanowski v. Naranja Lakes Condominium No. Five, Inc., 421 So. 2d 558 (Fla. 3d DCA 1982), rev. denied, 430 So. 2d 451 (Fla. 1983)** held that to recover under quantum meruit one must show that the recipient:

1. acquiesced in the provision of services;
2. was aware that the provider expected to be compensated; and
3. was unjustly enriched thereby.

As the specific terms in an implied contract are absent, the law supplies the missing contract price by asking what one would have to pay in the open market for the same work. Thus, the measure of damages under quantum meruit is defined as *"the reasonable value of the labour performed, and the market value of the materials furnished"* to the project. This was the position of the court in **Moore v. Spanish River Land Co., 159 So. 673, 674 (Fla. 1935)**

In a recent Kentucky Court of Appeals decision, **Stotts v. Skipworth, No. 2006-CA-001567-MR (Ky. App. 2/15/2008) (Ky. App., 2008)**, the court defined Quantum Meruit as follows:

*"Quantum meruit is an equitable doctrine granting one who has rendered services in a quasi-contractual relationship the reasonable value of services rendered. The elements of a claim for quantum meruit are as follows:*

- a. that valuable services were rendered, or materials furnished;*
- b. to the person from whom recovery is sought;*
- c. which services were accepted by that person, or at least were received by that person, or were rendered with the knowledge and consent of that person; and*
- d. under such circumstances as reasonably notified the person that the plaintiff expected to be paid by that person."*

Plaintiffs suing under a quantum meruit theory must prove all of the following:

1. The defendant requested (by words or conduct), that the plaintiff perform services for the benefit of the defendant;
2. The plaintiff performed the services as requested;
3. The defendant has not paid the plaintiff for the services; and

The reasonable value of the services that were provided.

The principle is that where a person rendered services in pursuance of a transaction, supposed by him to be a contract, which in truth, is without legal

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validity, he can recover on a quantum meruit basis wages for the service rendered. The court in principle looks at the supposed agreement to enable the court to assess the amount payable as posited by Abban J in **Hammond V Ainooson [1974] 1 GLR 176**.

The existence of a contract is not a sine qua non for remuneration on quantum meruit. Where from the surrounding facts a promise to pay should be implied irrespective of the intention of the parties at the time when the work was done or the services rendered, the court would imply that the recipient of the service would pay a reasonable sum. The court opined in **Kobaku Associates V. Owusu [2003-2005] 1 GLR 611** that what was a reasonable amount was a question of fact.



## Conclusion

It is worth noting that a person can claim compensation for work done from a principal where clear remuneration was not negotiated or agreed upon prior to work commencing or service being rendered.

The court would imply that the principal or recipient of the service should pay a reasonable sum once a

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promise to pay can be implied from the facts of the case, and what was a reasonable amount was a question of fact.

For legal practitioners, although the professional scale of fees might be taken into account, an award would be made taking into account the value and quality of work actually done, the time spent and the experience of the party.

***By Bervelyn Akosua Twumasi  
(Associate)***

If you require further information or assistance with respect to the contracts or quantum meruit claims, kindly send an email to [ilc@integratedlegalconsultants.com](mailto:ilc@integratedlegalconsultants.com)