

Quantum meruit

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Quantum meruit is a Latin phrase meaning "what one has earned". In the context of contract law, it means something along the lines of "reasonable value of services".

In the United States, the elements of *quantum meruit* are determined by state common law. For example, to state a claim for unjust enrichment in New York, a plaintiff must allege that (1) defendant was enriched; (2) the enrichment was at plaintiff's expense; and (3) the circumstances were such that equity and good conscience require defendants to make restitution.^[1]

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Situations

Quantum meruit is the measure of damages where an express contract is mutually modified by the implied agreement of the parties, or not completed. While there is often confusion between the concept of *quantum meruit* and that of "unjust enrichment" of one party at the expense of another, the two concepts are distinct.

The concept of *quantum meruit* applies in (but is not limited to) the following situations:

1. When a person hires another to do work for him, and the contract is either not completed or is otherwise rendered unperformable, the person performing may sue for the value of the improvements made or the services rendered to the defendant. The law implies a promise from the employer to the workman that he will pay him for his services, as much as he may deserve or merit.

The measure of value set forth in a contract may be submitted to the court as evidence of the value of the improvements or services, but the court is *not* required to use the contract's terms when calculating a *quantum meruit* award. (This is because the values set forth in the contract are rebuttable, meaning the one who ultimately may have to pay the award can contest the value of services set in the contract.)

1. When there is an express contract for a stipulated amount and mode of compensation for services, the plaintiff cannot abandon the contract and resort to an action for a *quantum meruit* on an implied assumpsit. However, if there is a total failure of consideration, the plaintiff has a right to elect to repudiate the contract and may then seek compensation on a *quantum meruit* basis.

Examples

I. An example used in United States law schools is usually as follows:

Person A (plaintiff in this hypothetical) tells neighbor B (defendant) that he is going to build a wall on their property that will give a benefit to both A and B; A implies that it would be cheaper for both of them if A performs the labor instead of hiring a professional. B agrees that the wall should be built, but no price is negotiated. A builds the wall, and then asks B to compensate him for the benefit of the wall that he conferred on B (usually half the value of the wall). B refuses. A is entitled to some compensation based on *quantum meruit*. This is because there was an implied promise between A and B, which is derived from contract law, because A was acting under the assumption that B would pay for part of his services (see Estoppel). The winning of the case will be directed as an assumpsit on a *quantum meruit*. *Day v. Caton*, 119 Mass. 513 (1876).

In Canada, *quantum meruit* is not based on contract law but rather depends on equitable principles of unjust enrichment. Estoppel allows an implied promise to act as a shield against litigation but never a sword. Therefore an implied promise would not create a cause of action. Instead *quantum meruit* is based on the need to prevent the neighbor from unjustly enriching himself by allowing the fence builder to proceed with the work based on an assumption that he would be compensated.

II. *Quantum meruit* can also apply where there is a breached contract.

A contractor is contracted to work on a school. The contractor does some work but then quits (breach of contract). The contractor is entitled to be paid for the services he has already provided for the school on the basis of *quantum meruit* (however the school may be entitled to damages arising out of the need to look for a new contractor).

III. If a plaintiff is prohibited from completing work based on a long-term service contract where other contracts have been negotiated, the plaintiff may ask a court to determine a judgment based on the amounts that the defendant benefited. Third parties may also bring actions against the plaintiff.

IV. A promoter enters into a long-term service contract with a theatre to exclusively present events for a specified period. The promoter books events and contracts with others to perform during the entire period but alleges that the theatre is unsafe. The promoter withholds payments until the theatre is made safe. The theatre performs no repairs. Instead, the theatre terminates the entire service contract before the benefit of the events occurs to the plaintiff and refuses to repair the theatre. After the contract is terminated, the theatre operates the events negotiated by the promoter and gains a significant benefit but does not pay the promoter anything. The theatre also cancels some events without cause. A court determines that the promoter is entitled to an assumpsit on a *quantum meruit*.

Notable cases

- *Boardman v Phipps*
- *Sumpter v Hedges* [1898] 1 QB 673
- *Chodos v. West Publishing Co.*, 292 F.3d 992 (9th Cir. 2002)
- *Universal Acupuncture Pain Servs. v. Quadrino & Schwartz, P.C.*, 370 F.3d 259 (2d Cir. 2004)

Footnotes and references

1. Quantum meruit | Wex Legal Dictionary / Encyclopedia | LII / Legal Information Institute (https://www.law.cornell.edu/wex/quantum_meruit)

External links

- 辞書 The dictionary definition of *quantum meruit* at Wiktionary
- 辞書 The dictionary definition of *quantum valebant* at Wiktionary

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