

IN THE SUPREME COURT OF MISSISSIPPI

NO. 2018-CT-00164-SCT

WASTE MANAGEMENT OF MISSISSIPPI INC.

v.

JACKSON RAMELLI WASTE LLC

ON WRIT OF CERTIORARI

DATE OF JUDGMENT:	10/13/2017
TRIAL JUDGE:	HON. TOMIE T. GREEN
TRIAL COURT ATTORNEYS:	SHELDON G. ALSTON C. LEE LOTT, III ROBERT GREGG MAYER JASON THOMAS MARSH TAMMYE CAMPBELL BROWN GLADSTONE N. JONES, III ARTHUR MARTIN EDWARDS, IV CATHERINE E. LASKY MAURICE C. RUFFIN JOSEPH ANTHONY SCLAFANI KERRY A. MURPHY JAMES W. SHELSON MARK DAVID FIJMAN
COURT FROM WHICH APPEALED:	HINDS COUNTY CIRCUIT COURT
ATTORNEYS FOR APPELLANT:	LATOYA CHEREE MERRITT FRED L. BANKS, JR. MARK DAVID FIJMAN NIKITA SHERRELL McMILLIAN
ATTORNEYS FOR APPELLEE:	SHELDON G. ALSTON JOSEPH ANTHONY SCLAFANI MATTHEW WADE ALLEN CATHERINE E. LASKY
NATURE OF THE CASE:	CIVIL - CONTRACT
DISPOSITION:	REVERSED AND RENDERED - 09/03/2020
MOTION FOR REHEARING FILED:	
MANDATE ISSUED:	

EN BANC.

GRIFFIS, JUSTICE, FOR THE COURT:

¶1. In this certiorari case, the Court must determine whether Jackson Ramelli Waste LLC is entitled to additional compensation “over and above [the] amounts agreed upon by the parties, invoiced by [Jackson Ramelli], and accepted as payment by [Jackson Ramelli], in the absence of a contract, but under a quantum meruit theory[.]” Because the record establishes that the additional work claimed by Jackson Ramelli was contemplated by its contract and because Jackson Ramelli did not have a reasonable expectation of additional compensation, its quantum meruit claim is reversed and rendered, and final judgment is entered in favor of Waste Management of Mississippi Inc.

FACTS AND PROCEDURAL HISTORY

¶2. From October 1, 2009, through September 30, 2015, Waste Management contracted with the City of Jackson to collect solid waste from all residential units and light commercial entities in the city. The contract required Waste Management to subcontract 35.802 percent of the work to minority-owned or women-owned businesses and to adhere to the requirements of the City’s equal business opportunity (EBO) plan. Waste Management entered a subcontract with Jackson Ramelli and Metro Waste Disposal to perform certain portions of the waste-collection services and to fulfill this obligation.

¶3. Waste Management and Jackson Ramelli executed a written subcontract with a term of October 1, 2009, through September 30, 2010. This subcontract governed the work Waste Management assigned to Jackson Ramelli as part of its minority-subcontractor obligation. The subcontract stated that Jackson Ramelli would service 11,175 homes and would be paid

\$7.40 per home. It further provided that Jackson Ramelli's payment rate would be adjusted annually "in accordance with any increase or decrease in the Consumer Price Index [(CPI)] for Urban Wage Earners and Clerical Workers . . . published by the [United States Department of Labor's Bureau of Labor Statistics]" Jackson Ramelli also agreed to perform the subcontract services in compliance with the contract between Waste Management and the City. Both parties were prohibited from the assignment of the subcontract without the other party's consent.

¶4. Unbeknownst to Waste Management, after entering into the subcontract with Waste Management, Jackson Ramelli subcontracted all of its work to RKC LLC, a Louisiana company that was neither a minority- nor women-owned company. It is undisputed that RKC performed all of the residential waste-collection services that Waste Management hired Jackson Ramelli to perform.

¶5. The subcontract between Waste Management and Jackson Ramelli expired on September 30, 2010. It did not contain a provision for renewal or extension of the subcontract. After the expiration of the subcontract, the parties continued services on a month-to-month basis.

¶6. From September 2010 to March 2015, Jackson Ramelli performed residential waste-collection services on behalf of Waste Management for the City. During this time, Jackson Ramelli invoiced Waste Management for the services on a monthly basis. With the exception of the final month for which Jackson Ramelli invoiced Waste Management, Waste Management paid each invoice in full.

¶7. In January 2012, Jackson Ramelli purchased the right to assume Metro Waste's routes related to the contract. Waste Management was not a party to this agreement, but Jackson Ramelli sought Waste Management's approval before making final the transaction because Jackson Ramelli knew that Waste Management had a continuing obligation to comply with the City's EBO plan.

¶8. As a result, Jackson Ramelli increased the amount it invoiced Waste Management to reflect the additional houses it acquired through its acquisition of Metro Waste's routes. Although the number of houses was not indicated on the invoices, the new invoices were adjusted for services to approximately 21,000 houses. Waste Management paid the invoices in full. Jackson Ramelli accepted each Waste Management check and continued to provide the services.

¶9. From January 2012 to March 2015, Waste Management continued to pay Jackson Ramelli's invoices in full for services rendered by Jackson Ramelli, including the additional houses acquired via the Metro Waste transaction. While Jackson Ramelli submitted monthly invoices to Waste Management for services rendered, it did not invoice Waste Management for any CPI adjustments or for any further houses serviced. But during this time, Jackson Ramelli raised the possibility of additional compensation to reflect (1) the changes in the CPI and (2) the increase in the number of houses Jackson Ramelli claimed to be servicing.

¶10. Waste Management and Jackson Ramelli's business relationship ended in March 2015. Jackson Ramelli filed a complaint against Waste Management in July 2015 and asserted claims for breach of contract, tortious breach of contract, and breach of the implied

covenant of good faith and fair dealing. Jackson Ramelli's claims were based on Waste Management's (1) nonpayment of CPI increases between 2012 and 2015, (2) nonpayment of waste-collection services for additional houses between 2012 and 2015, and (3) nonpayment of work performed in March 2015.

¶11. Waste Management responded and filed a counterclaim for misrepresentation, fraud, fraudulent inducement, tortious interference with a contract, breach of contract, and breach of the implied covenant of good faith and fair dealing. Waste Management's claims were based on Jackson Ramelli's representations that the waste-collection services would be performed by Jackson Ramelli, not RKC.

¶12. Waste Management moved to dismiss Jackson Ramelli's lawsuit because it was brought in the name of the wrong entity. Specifically, the lawsuit was filed in the name of "Jackson/Ramelli, LLC," but the subcontract at issue was between Waste Management and "Jackson Ramelli Waste, LLC." Shortly thereafter, Jackson Ramelli moved to amend its complaint to add a claim for quantum meruit.

¶13. At the hearing on both motions, Jackson Ramelli made an oral motion to correct the legal entity named in its complaint to "Jackson Ramelli Waste, LLC." Jackson Ramelli did not attempt to amend its complaint to add a quantum meruit claim. The trial court granted Jackson Ramelli's oral motion to correct the legal entity named in the complaint and denied Waste Management's motion to dismiss the complaint. An order was entered July 27, 2016. The trial court's order did not address Jackson Ramelli's motion to amend to add a quantum meruit claim. Jackson Ramelli did not challenge or seek clarification of the trial court's

order.

¶14. The trial was set for October 2, 2017. In the joint pretrial order submitted by the parties, Jackson Ramelli raised a quantum meruit claim and argued that the trial court had not ruled on its request for leave to amend the complaint to add this claim. Waste Management objected and asserted that the quantum meruit claim had been abandoned.

¶15. On the first day of trial, Waste Management objected to Jackson Ramelli's attempt to bring the quantum meruit claim. At that time, the trial court found that the quantum meruit claim had been abandoned and that Jackson Ramelli was limited to the claims in its original complaint. Notwithstanding the trial court's ruling, however, Jackson Ramelli was allowed to pursue its claim for quantum meruit.

¶16. On the last day of trial, after the presentation of its case-in-chief, Waste Management renewed its motion for a directed verdict on Jackson Ramelli's breach-of-contract claims. The trial court found that although the written subcontract had expired on September 30, 2010, an agreement existed between Jackson Ramelli and Waste Management beyond that date, "the terms of which must come from the conduct and operation of the parties after September 30[, 2010]." The trial court determined that this was a factual issue for the jury to decide and denied Waste Management's motion for a directed verdict.

¶17. Additionally, over Waste Management's objection, the trial court allowed Jackson Ramelli to amend its complaint to add a quantum meruit claim in order to "comply with the proof that ha[d] been advanced" at trial. Waste Management moved for a directed verdict on the quantum meruit claim and argued that Jackson Ramelli waived any right to additional

compensation for CPI increases and for uninvoiced services for additional houses because it accepted the monthly invoice payments from Waste Management and because it did not demand more money. The trial court denied Waste Management's motion and found that "the evidence sufficiently raise[d] the issue for fact determination [by the jury]."

¶18. Jackson Ramelli moved for a directed verdict on each of the breach-of-contract and fraud-based claims in Waste Management's counterclaim. The trial court granted Jackson Ramelli's motion and directed a verdict in favor of Jackson Ramelli on Waste Management's counterclaims.

¶19. Jackson Ramelli's claims for breach of contract and quantum meruit were submitted to the jury. The jury returned a general verdict of \$1,017,527.56 in favor of Jackson Ramelli.

¶20. Waste Management subsequently filed a motion for judgment notwithstanding the verdict (JNOV) or, in the alternative, for a new trial or a remittitur of damages, which the trial court denied. Waste Management appealed and argued (1) Jackson Ramelli's breach-of-contract claim should have been dismissed because the subcontract expired in 2010, and no other agreement supported the payment of any additional compensation to Jackson Ramelli; (2) the trial court erred by allowing Jackson Ramelli to amend its complaint on the last day of trial to add a quantum meruit claim; (3) even if the trial court did not err by allowing Jackson Ramelli to amend the complaint to add a quantum meruit claim, Waste Management was entitled to a JNOV because Jackson Ramelli admitted that it did not perform the work, and the quantum meruit claim was otherwise legally insufficient; (4) in the alternative, the jury's damages award should be vacated or remitted to an amount

supported by the law and the evidence; and (5) Waste Management is entitled to a new trial because the trial court improperly entered a directed verdict on its breach-of-contract and fraud-based counterclaims.

¶21. The Court of Appeals found that the trial court erred by allowing Jackson Ramelli's breach-of-contract claim to be submitted to the jury. *Waste Mgmt. of Miss. Inc. v. Jackson Ramelli Waste LLC*, No. 2018-CA-00164-COA, 2019 WL 3562093, at *6 (Miss. Ct. App. 2019). Specifically, the court found that Jackson Ramelli failed to show that Waste Management agreed to pay additional compensation for CPI increases or for uninvoiced services for additional houses. *Id.* As a result, the Court of Appeals reversed and rendered the trial court's denial of Waste Management's motions for a directed verdict and a JNOV on Jackson Ramelli's breach-of-contract claim. *Id.*

¶22. The Court of Appeals further found that the trial court abused its discretion by allowing the quantum meruit amendment after the close of evidence and therefore reversed and remanded for a new trial on Jackson Ramelli's quantum meruit claim. *Id.* But the Court of Appeals then considered the merits of the quantum meruit claim and whether the trial court erred by denying Waste Management's motions for a directed verdict and a JNOV on the quantum meruit claim. *Id.* The court determined that "there was sufficient evidence to create a fact question for the jury on the essential elements of Jackson Ramelli's quantum meruit claim" and therefore remanded the claim for further discovery and a new trial. *Id.* at *13.

¶23. The Court of Appeals also determined that the trial court erred by allowing Jackson

Ramelli to introduce into evidence Exhibit P-32, a chart of additional-compensation calculations. *Id.* The court explained that while the chart was properly used to assist the jury in understanding the issue presented at trial, the chart should not have been introduced into evidence or used by the jury during deliberations. *Id.*

¶24. The Court of Appeals last determined that the trial court did not err by granting Jackson Ramelli’s motions for a directed verdict on Waste Management’s breach-of-contract and fraud-based claims. *Id.* at *14. Specifically, the court found insufficient evidence “that Jackson Ramelli breached the subcontract, or any subsequent oral agreement between the parties” and found no evidence of “an injury suffered by Waste Management proximately caused by Jackson Ramelli’s alleged misrepresentation” *Id.* at *14-15.

¶25. Waste Management filed a petition for certiorari and argued (1) “[t]he Court of Appeals’ recognition of a quantum meruit cause of action for non-invoiced amounts is contrary to Mississippi precedent,” and (2) “[t]he Court of Appeals’ recognition of a quantum meruit cause of action for non-invoiced amounts involves fundamental issues of broad public importance.” This Court granted the petition.

STANDARD OF REVIEW

¶26. The trial court denied Waste Management’s motions for a directed verdict and a JNOV on Jackson Ramelli’s quantum meruit claim and submitted the claim to the jury. On appeal, the Court of Appeals found that sufficient evidence had been presented to create a fact question for the jury regarding Jackson Ramelli’s quantum meruit claim and remanded the claim for a new trial. *Waste Mgmt. of Miss.*, 2019 WL 3562093, at *13. In its petition

for certiorari, Waste Management disagrees with the decisions of the trial court and the Court of Appeals and argues that the facts and evidence show that it is entitled to a judgment as a matter of law on the quantum meruit claim. We agree.

¶27. “This Court’s standard of review on motions for directed verdict and judgment notwithstanding the verdict are the same.” *Jackson HMA, LLC v. Morales*, 130 So. 3d 493, 497 (Miss. 2013) (internal quotation marks omitted) (quoting *Estate of Jones v. Phillips ex rel. Phillips*, 992 So. 2d 1131, 1146 (Miss. 2008)). “Motions for directed verdict and judgment notwithstanding the verdict consider whether the ‘evidence is sufficient to support a verdict for the non-moving party.’” *Id.* (quoting *Estate of Jones*, 992 So. 2d at 1146). “When determining whether the evidence was *sufficient*, the critical inquiry is whether the evidence is of such quality that reasonable and fairminded jurors in the exercise of fair and impartial judgment might reach different conclusions.” *Id.* (internal quotation marks omitted) (quoting *Poole ex rel. Wrongful Death Beneficiaries of Poole v. Avara*, 908 So. 2d 716, 726 (Miss. 2005)). “Thus, this Court considers whether the evidence, as applied to the elements of a party’s case, is either so indisputable, or so deficient, that the necessity of a trier of fact has been obviated.” *Id.* (internal quotation marks omitted) (quoting *Estate of Jones*, 992 So. 2d at 1146). “For purposes of our review, we consider all evidence in the light most favorable to the nonmoving party, and we view all reasonable inferences in the party’s favor.” *Id.* (internal quotation marks omitted) (quoting *Braswell v. Stinnett*, 99 So. 3d 175, 178 (Miss. 2012)).

DISCUSSION

¶28. The Court of Appeals reversed and rendered a decision in favor of Waste Management on Jackson Ramelli's breach-of-contract claim. *Waste Mgmt. of Miss.*, 2019 WL 3562093, at *6. That decision has not been appealed, so Jackson Ramelli's breach-of-contract claim has been finally resolved in favor of Waste Management. Waste Management argues in its petition for writ of certiorari only that the decision of the Court of Appeals to reverse and remand this case to allow Jackson Ramelli to proceed on the quantum meruit claim was error.¹ *Id.* at *13. We consider only whether the Court of Appeals erred by remanding the quantum meruit claim.

¶29. A claim for quantum meruit requires that we consider basic contract remedies. The following is a general statement of contract remedies and damages:

Once a party has breached a contract there are several remedies available to the injured party. There are legal remedies, or damages, which could consist of expectation damages, consequential damages, liquidated damages, and/or punitive damages. There are equitable damages which consist of restitution, rescission of the contract, reformation of the contract, specific performance, and quasi-contractual relief or recovery in *quantum meruit*. *Usually, equitable remedies will not be available if the legal remedy is adequate to compensate the injured party.*

Jeffrey Jackson and Mary Miller et al., *Encyclopedia of Mississippi Law* § 21:61, 313-14 (2001) (emphasis added). Next, we consider the general statement of law of quantum meruit:

Quasi-contractual relief is really a type of restitution; it prevents unjust enrichment. It is not a suit on the contract at all but is a remedy implied in law. If there was originally a contract involved but it failed and the failure of the contract resulted in an unjust enrichment to either party, even the non-breaching party, the injured party may be able to recover damages under a

¹ Waste Management does not include an argument that the trial judge erred by allowing Jackson Ramelli to amend its complaint after Waste Management rested at trial. *Id.* at *12.

quasi-contractual theory. “Such contracts rest upon the equitable principle that a person shall not be allowed to enrich himself [or herself] unjustly at the expense of another.” However, *generally, where there is a contract, and the contract has not failed, the parties may not abandon the contract and resort to quantum meruit*. In Mississippi, “[w]hen a contractor substantially performs the terms of the contract, substantial performance will support recovery either on the contract or on a *quantum meruit* basis.”

If there was no contract involved but one party has conferred a benefit on the other party with a reasonable expectation of being compensated, unjust enrichment would result if the defendant were allowed to retain the benefits without compensating the plaintiff. “Where the recovery is based on *quantum meruit*, the amount of recover is limited to the monetary equivalent of the reasonable value of the services rendered”

Id. at § 21.73, 319-20 (emphasis added).

¶30. Our review must begin with the breach-of-contract claim. A written subcontract between Waste Management and Jackson Ramelli governed residential trash-collection services. This subcontract provided that Jackson Ramelli was to collect trash in the areas designated on the attached route maps, containing approximately 11,175 residential units. Jackson Ramelli was to be paid at the rate of \$7.40 per residential unit served under the subcontract.² After 2010, the subcontract expired by its terms. The parties continued to do business on a month-to-month basis and continued to observe the terms of the subcontract. In 2012, Waste Management and Jackson Ramelli agreed that the number of homes served would increase to “approximately 21,000” homes based on Jackson Ramelli’s acquiring Metro Waste’s service routes. There was no additional house count, and the parties agreed

² Before the execution of the subcontract in 2009, Waste Management conducted a comprehensive house count of the homes in Jackson. The house count was verified and certified by the City of Jackson. Thus, Waste Management and Jackson Ramelli agreed that Jackson Ramelli would be compensated for services to 11,175 homes based on the 2009 house count.

to this number.

¶31. At trial, no evidence was presented that Waste Management ever agreed to pay or was obligated to pay Jackson Ramelli for trash-collection services to any further additional homes. In fact, for the remainder of their business relationship, Jackson Ramelli invoiced Waste Management for services to approximately 21,000 homes, and Waste Management paid the invoices in full.

¶32. The Court of Appeals ruled that Jackson Ramelli's breach-of-contract claim failed because "it is not supported by any written agreement, any invoices submitted by Jackson Ramelli to Waste Management, or any course of dealings between the parties indicating a 'mutual assent' to this additional compensation or to contract for such." *Waste Mgmt. of Miss.*, 2019 WL 3562093, at *6. The breach-of-contract claim was based on the alleged nonpayment for trash-collection services to extra homes. Jackson Ramelli claimed that it was owed an additional payment for each residential unit served over 21,000. The damages for the breach-of-contract claim could be easily calculated. It is clear that there was a legal remedy available to Jackson Ramelli on the breach-of-contract claim, i.e., monetary damages. The Court of Appeals decision is not challenged here so we must accept that the breach-of-contract claim failed as a matter of law.

¶33. Thus, we turn to the equitable remedy of quantum meruit. "Quantum meruit recovery is a contract remedy which may be premised either on express or 'implied' contract, and a prerequisite to establishing grounds for quantum meruit recovery is claimant's reasonable expectation of compensation." *Tupelo Redevelopment Agency v. Gray Corp.*, 972 So. 2d

495, 514 (Miss. 2007) (emphasis omitted) (internal quotation marks omitted) (quoting *Phillips v. Jurotich (In re Estate of Fitzner)*, 881 So. 2d 164, 173 (Miss. 2003)). This Court in *Tupelo Redevelopment Agency* held:

The essential elements of recovery under a *quantum meruit* claim are: “(1) valuable services were rendered or materials furnished; (2) for the person sought to be charged; (3) which services and materials were accepted by the person sought to be charged, used and enjoyed by him; and (4) under such circumstances as reasonably notified person sought to be charged *that plaintiff, in performing such services, was expected to be paid by person sought to be charged.*”

Therefore, *the doctrine of quantum meruit is applicable in today’s case, if the jury reasonably believed that Ragland performed additional work not contemplated by its oral contract with Gray, and that Gray accepted Ragland’s services and understood that Ragland desired to be compensated for said services.* As discussed *infra*, Ragland performed additional work at Gray’s command which was not contemplated by the contract, and Ragland is pursuing its claim for quantum meruit to recover for those services.

Tupelo Redevelopment Agency, 972 So. 2d at 514-15 (second and third emphasis added) (citations omitted). Essential to the ruling in *Tupelo Redevelopment Agency* was that a quantum meruit claim was available only if there was “additional work *not contemplated by*” the contract. Here, the original subcontract provided that Jackson Ramelli was to be paid at the rate of \$7.40 per residential unit served. But this subcontract expired on September 30, 2010. The subcontract did not provide for renewal or extension, and the parties’ relationship continued on a month-to-month basis. Each month, Jackson Ramelli submitted an invoice, and Waste Management paid it.

¶34. In 2015, after five years of this month-to-month relationship, Jackson Ramelli requested additional compensation for alleged increases in CPI adjustments and houses

serviced. But the record shows that Waste Management never agreed to pay Jackson Ramelli additional compensation for CPI increases or for an increase in houses that Jackson Ramelli claimed to service.

¶35. Jackson Ramelli submitted regular monthly invoices to Waste Management. From January 2009 through June 2010, Jackson Ramelli invoiced Waste Management for the amount of \$86,144.46. From July 2010 through November 2011, the invoice amount increased to \$93,660.60. For December 2011, there were two invoices, one for \$96,470.42 and one for \$5,619.64. From January 2012 through February 2015, the invoice increased to \$165,823.10. Each invoice stated that it was for “Residential Garbage Collection Service” for that particular month. Waste Management paid these invoices until March 2015, and Jackson Ramelli accepted payment and continued to provide service. Not one invoice included a house count or a request for payment for any additional houses serviced. Instead, each invoice was for “Residential Garbage Collection Service” for an agreed upon amount.

¶36. On the issue of additional compensation for the alleged additional houses serviced, Robert Ramelli testified that he did not send any invoices for additional houses without an agreed-on house count because he believed Waste Management would dispute the amount, and he could not afford to keep doing the work and not get paid. Specifically, Ramelli testified as follows:

Q. Mr. Ramelli. Is it correct that you continued to invoice Waste Management for 21,215; is that correct?

A. Yes, ma'am.

Q. You never increased your invoices to reflect the house count that Ms.

Robinson talked about of 23,721 houses?

A. No ma'am. We wanted to do a joint house count to make sure we had the right numbers with Waste Management.

Q. And did you accept payment from Waste Management for *those 21,000 houses*?

A. Yes, ma'am, I did.

Q. Why?

A. Because *that's what they told me that they thought I was picking up*, and that the contract said that it had to be an undisputed invoice. And I couldn't afford to keep doing the work and not getting paid. If I would have sent them an invoice for more houses, *they would have disputed it and not paid me*.

(Emphasis added.) Jackson Ramelli's invoices and Ramelli's testimony established that there was no agreement by Waste Management to pay Jackson Ramelli for any additional houses. Moreover, his testimony established that there was no reasonable expectation that Waste Management would pay for any additional houses but instead would pay the agreed-upon amount included in each monthly invoice.

¶37. In support of its quantum meruit claim, specifically, that it had a reasonable expectation of additional compensation, Jackson Ramelli relies on various correspondence with Waste Management. But this correspondence established that Waste Management never agreed to Jackson Ramelli's requests for additional compensation and never provided any reasonable expectation for additional compensation.

¶38. For example, in a July 2014 email to Waste Management's representative Jim Funderburg, RKC owner David Starks stated that he had noticed that Jackson Ramelli had

not received its CPI increase. Funderburg responded that Waste Management “did not get a CPI” from the City.³ Starks clearly understood that Funderburg had denied his request because Starks replied, “Ugh!”

¶39. Additionally, in an October 2014 letter to Funderburg, Robert Ramelli advised that he believed that Jackson Ramelli was servicing approximately five thousand additional houses for which Jackson Ramelli was not being paid. Ramelli requested both a new “house count” and an “increase in per household compensation.” Notably, Ramelli stated that Jackson Ramelli was “currently working at a deficit and may find it necessary to withdraw [its] services should [it] fail to reach an amicable agreement.”

¶40. Ramelli acknowledged at trial that Funderburg verbally rejected his request for an increase in per household compensation. Specifically, Funderburg responded to Ramelli by letter dated October 27, 2014:

Waste Management is agreeable to a joint house count verifying the number of homes currently serviced by Jackson Ramelli We will also invite the City to participate since a potential increase or decrease in the number of homes will need to be agreed upon by the City in order for us to be paid for any additional homes or credit due to reduction.

I also suggest we postpone any discussion of an increase in your compensation until after the house count is completed. In order to increase Ramelli’s compensation, Waste Management would need to receive a corresponding increase from the City.

¶41. In response to Funderburg’s letter, Starks stated in an email that Funderburg’s “proposal [wa]s an excellent idea” and that he and Mr. Ramelli both agreed with the letter

³ Funderburg explained at trial that Waste Management could not grant Jackson Ramelli a CPI increase because Waste Management had not received a CPI increase under its contract with the City.

“in its’ [sic] entirety.” But as the Court of Appeals acknowledged,

although Funderburg . . . indicate[d] he was agreeable to a joint house count, the record reflects that one never took place. As the record also reflects, Jackson Ramelli . . . submit[ted] two unilateral house counts to Waste Management (the 2014 and 2016 house counts), but . . . Starks acknowledged that the 2014 count “may be inaccurate.” He also testified that Funderburg ‘didn’t agree with [the] numbers’ and insisted that the “math was off.” Regarding the 2016 house count, the record reflects that it was conducted after Jackson Ramelli filed its lawsuit against Waste Management and that it was not presented to Waste Management before the lawsuit commenced. In short, neither of these house counts establishes that Waste Management agreed to or was contractually obligated to provide any additional payment to Jackson Ramelli.

Waste Mgmt. of Miss., 2019 WL 3562093, at *9.

¶42. The correspondence cited by Jackson Ramelli does not support its quantum meruit claim. Indeed, there is nothing in the correspondence to support a “reasonable expectation” of additional compensation. Instead, the correspondence demonstrates Jackson Ramelli’s clear understanding that Waste Management had not agreed to and did not agree to additional compensation. Despite this understanding, the record shows that Jackson Ramelli continued to provide service and to submit invoices based on the original house count and without any CPI increases for years after 2011. “Given that Waste Management consistently refused to agree to any increase in compensation, Jackson Ramelli could not have had any ‘reasonable expectation’ of additional compensation for its services. Until Waste Management *actually* agreed to an increase, no such expectation would have been reasonable.” *Id.* at *16 (J. Wilson, P.J., concurring in part and dissenting in part).

¶43. While Jackson Ramelli acknowledges that a prerequisite for a quantum meruit claim is a “reasonable expectation of compensation,” it argues that the elements of quantum meruit

do not include an “agreement.” Jackson Ramelli asserts that a “‘reasonable expectation of compensation’ evaluates the expectations of one party rather than the existence of ‘an agreement’ between two parties.” In support, Jackson Ramelli relies on *Tupelo Redevelopment Agency*, in which this Court found that “the doctrine of *quantum meruit* is applicable . . . if the jury reasonably believed that Ragland performed additional work not contemplated by its oral contract with Gray, and that Gray accepted Ragland’s services and understood that Ragland desired to be compensated for said services.” *Tupelo Redevelopment Agency*, 972 So. 2d at 515. Here, Waste Management’s payment to Jackson Ramelli clearly contemplated the payment based on the established and agreed-upon house count and not for any other amount or additional house count.

¶44. But even assuming Jackson Ramelli performed additional work, there is no record evidence that Waste Management “accepted [Jackson Ramelli]’s services and understood that [Jackson Ramelli] desired to be compensated for said services.” *Id.* Again, as Mr. Ramelli’s trial testimony shows, Jackson Ramelli only invoiced Waste Management for the 21,000 houses because “that’s what . . . [Waste Management] thought [Jackson Ramelli] was picking up.” Waste Management accepted the services regarding the 21,000 houses as invoiced and compensated Jackson Ramelli for the services. While Jackson Ramelli claimed that it was servicing additional houses and voiced a desire to do a house count to confirm the number of houses serviced, no house count was ever done. Thus, there was no confirmation of the alleged additional houses serviced; moreover, there was no understanding that Jackson Ramelli was to be compensated for those alleged additional services.

¶45. The dissent concludes that “Jackson Ramelli showed sufficiently that it performed a valuable service at Waste Management’s request, that Waste Management accepted that service, and that Jackson Ramelli had a reasonable expectation of payment for that service and reasonably notified Waste Management that it expected to be paid for it.” Diss. Op. ¶ 13. Yet throughout their business relationship, Jackson Ramelli invoiced Waste Management for services at a specific agreed upon dollar amount, not on a per-household amount. Waste Management paid, and Jackson Ramelli accepted payment of this agreed-upon dollar amount for the “Residential Garbage Collection Services.”

¶46. Despite the dissent’s conclusion that Jackson Ramelli had a reasonable expectation for payment for additional houses, there is simply no evidence that Jackson Ramelli ever invoiced Waste Management to pay such amount. Jackson Ramelli’s invoices could have requested payment on a per-house basis at a different amount each month based on its actual house count and included such request for additional compensation in the monthly invoice. It did not.

¶47. Instead, Jackson Ramelli requested payment each month from Waste Management through an invoice it prepared and used to request payment for its services rendered. Each and every invoice stated an “amount due” for that month’s “Residential Garbage Collection Service.” Jim Funderburg testified:

Q. And what was the total amount of money that was paid by Waste Management to the Ramelli Group from January of 2010 through February 20th of 2015?

A. \$8,598,609.28.

Q. During the time that Waste Management had its business relationship with Jackson Ramelli, was invoicing the only mechanism by which you knew what to pay and what they were requesting in payment?

A. Yes. . . . Yes, ma'am, that was it. They'd submit an invoice, and we'd pay it. That was the only mechanism that money changed hands.

. . . .

Q. Was there ever a time during the business relationship between Waste Management and Jackson Ramelli that you did not approve an invoice that was submitted?

A. No.

¶48. As Judge Wilson correctly noted in his separate opinion,

With respect to Jackson Ramelli's quantum meruit claim, the relevant facts are not complicated: Jackson Ramelli asked for pay increases, Waste Management refused, and Jackson Ramelli then continued to provide services without any increase in pay. Jackson Ramelli expressed its opinion that it was being under-compensated, and it asked for more money. But Waste Management did not share that opinion, and it never agreed to any additional compensation. Under these circumstances, Jackson Ramelli could not have had any "reasonable expectation" of additional compensation.

Waste Mgmt. of Miss., 2019 WL 3562093, at *17 (J. Wilson, P.J., concurring in part and dissenting in part). We agree and find that Jackson Ramelli's quantum meruit claim is without merit.

CONCLUSION

¶49. Because Jackson Ramelli failed to prove the necessary elements of quantum meruit, the trial court erred by denying Waste Management's motions for a directed verdict and a JNOV on the quantum meruit claim. Likewise, the Court of Appeals erred by remanding the claim for a new trial. Jackson Ramelli's quantum meruit claim is reversed and rendered, and

we enter a final judgment in favor of Waste Management.

¶50. **REVERSED AND RENDERED.**

RANDOLPH, C.J., COLEMAN, MAXWELL, BEAM, CHAMBERLIN AND ISHEE, JJ., CONCUR. KITCHENS, P.J., DISSENTS WITH SEPARATE WRITTEN OPINION JOINED BY KING, P.J.

KITCHENS, PRESIDING JUSTICE, DISSENTING:

¶51. I respectfully dissent. The trash never takes itself out. A rational jury could find that Jackson Ramelli Waste LLC had a reasonable expectation of being paid by Waste Management of Mississippi Inc. for each and every house from which it collected garbage. Because the evidence was sufficient to support a verdict for Jackson Ramelli on its *quantum meruit* claim, I would affirm the Court of Appeals' decision to reverse and remand for additional discovery and for a new trial on that claim.

¶52. My colleagues in the majority find that Waste Management was entitled to a directed verdict or judgment notwithstanding the verdict (JNOV) on its *quantum meruit* claim because they conclude that the evidence was insufficient to support a jury verdict on that claim. "This Court has held that it would apply the same standard to a [JNOV] motion as to a motion for directed verdict made at the close of all the evidence." *Henson v. Roberts*, 679 So. 2d 1041, 1044 (Miss. 1996) (citing *James v. Mabus*, 574 So. 2d 596, 600 (Miss. 1990)). Both motions attack the sufficiency of the evidence, and "the critical inquiry is whether the evidence is of such quality that reasonable and fairminded jurors in the exercise of fair and impartial judgment might reach different conclusions." *Poole ex rel. Wrongful Death Beneficiaries of Poole v. Avara*, 908 So. 2d 716, 726 (Miss. 2005) (citing *Jesco, Inc. v. Whitehead*, 451

So. 2d 706, 713-14 (Miss. 1984) (Robertson, J., specially concurring)). We “will consider the evidence in the light most favorable to the appellee, giving that party the benefit of all favorable inference[s] that may be reasonably drawn from the evidence.” *Spotlite Skating Rink, Inc. v. Barnes ex rel. Barnes*, 988 So. 2d 364, 368 (Miss. 2008) (internal quotation mark omitted) (quoting *Ala. Great S. R.R. Co. v. Lee*, 826 So. 2d 1232, 1235 (Miss. 2002)).

¶53. *Quantum meruit* recovery is not dependent on an express contract but may be based on an implied contract. *Estate of Johnson v. Adkins*, 513 So. 2d 922, 926 (Miss. 1987). The claimant must show a reasonable expectation of compensation. *Id.* I find that the majority’s analysis confuses *quantum meruit* with unjust enrichment.⁴ This Court has explained that *quantum meruit* is a contract remedy that may be based on an express contract or on an implied contract. *Estate of Johnson*, 513 So. 2d at 926. Recovery in *quantum meruit* is “the reasonable value of the materials or services rendered.” *Id.* (citing *Kalavros v. Deposit Guar. Bank & Tr. Co.*, 248 Miss. 107, 158 So. 2d 740 (1963)). For *quantum meruit*, “[w]here there is a promise, either express or implied, to pay for services rendered, and the amount of the compensation is not agreed upon, the law will imply an obligation to pay on a quantum meruit.” *Wiltz v. Huff*, 264 So. 2d 808, 811 (Miss. 1972) (quoting *Hickman v. Slough*, 187 Miss. 525, 193 So. 443 (1940)). On the other hand, “[u]njust enrichment is an equitable remedy closely associated with ‘implied contracts’ and trusts.” *Estate of Johnson*, 513 So. 2d at 926. Unjust enrichment applies when no legal contract exists, “but where the person sought to be charged is in possession of money or property which in good conscience and

⁴ With respect, the *Encyclopedia of Mississippi Law* cited by the majority is secondary authority and is not authoritative or binding on this Court.

justice he should not retain but should deliver to another” *Id.* (quoting *Hans v. Hans*, 482 So. 2d 1117, 1122 (Miss. 1986)). Unjust enrichment is not a claim in this case; *quantum meruit* is.

¶54. The elements of a *quantum meruit* claim are:

(1) valuable services were rendered or materials furnished; (2) for the person sought to be charged; (3) which services and materials were accepted by the person sought to be charged, used and enjoyed by him; and (4) under such circumstances as reasonably notified person sought to be charged that plaintiff, in performing such services, was expected to be paid by person sought to be charged.

Tupelo Redevelopment Agency v. Gray Corp., 972 So. 2d 495, 514-15 (Miss. 2007) (internal quotation mark omitted) (citing *Phillips v. Jurotich (In re Estate of Fitzner)*, 881 So. 2d 164, 173-74 (Miss. 2003)). In *Tupelo*, the Court held that *quantum meruit* would apply “if the jury reasonably believed that Ragland performed additional work not contemplated by its oral contract with Gray, and that Gray accepted Ragland’s services and understood that Ragland desired to be compensated for said services.” *Tupelo*, 972 So. 2d at 515.

¶55. Considering the evidence and all reasonable inferences in the light most favorable to Jackson Ramelli, the evidence was sufficient to create a jury question on each and every element of *quantum meruit*. The City of Jackson contracted with Waste Management for garbage pickup for which it paid Waste Management on a per-house basis. Waste Management subcontracted a portion of its trash collection contract to Jackson Ramelli which, in turn, subcontracted the work to RKC, LLC. The contract between Waste Management and Jackson Ramelli that expired on September 30, 2010, provided for Jackson Ramelli to be compensated per house. Jackson Ramelli presented evidence that from the time

the contract expired through February 2015, it had rendered valuable services by picking up garbage at each house situated on the routes assigned by Waste Management.

¶56. The record is replete with evidence that Waste Management accepted, used, and enjoyed those services. James Funderburg, a senior district manager with Waste Management, testified that, although he had fielded some customer complaints, overall Jackson Ramelli's services were sufficiently satisfactory that he approved for payment every invoice submitted by Jackson Ramelli until the parties' business relationship disintegrated in March 2015. RKC's route manager, Itoya Robinson, testified that Waste Management periodically assigned additional garbage collection routes to Jackson Ramelli. Robinson testified also that, during the relevant time period, new subdivisions had been constructed on the routes with the effect of adding numerous new houses to the assigned routes.

¶57. Jackson Ramelli presented evidence that it rendered its garbage collection services under such circumstances as reasonably notified Waste Management that Jackson Ramelli had a reasonable expectation of being paid for additional houses on the new routes and for new houses constructed on extant routes. In other words, Jackson Ramelli showed that it had a reasonable expectation of being paid for each and every house from which RKC, its subcontractor, had collected garbage. The contract in effect from November 1, 2009, through September 30, 2010, provided for Waste Management to pay Jackson Ramelli per house. This arrangement mirrored Waste Management's garbage collection contract with the City of Jackson, which provided likewise for payment per house. After the contract between Waste Management and Jackson Ramelli had expired, the parties continued the course of

conduct under which Jackson Ramelli was paid on a per-house basis. When Jackson Ramelli acquired the routes of another company, Metro Waste, Waste Management agreed that the number of houses being serviced had increased to approximately 21,000 homes, and it paid Jackson Ramelli accordingly.

¶58. Waste Management's witnesses did not dispute that the parties' understanding was that payment was on a per-house basis. Funderburg testified that his dispute was with the number of houses on Jackson Ramelli's routes. He testified that he thought the number of houses had decreased. But Robinson testified that, around 2012 or 2013, she noticed increased wear and tear on RKC's garbage trucks, increased fuel usage, increased tonnage of garbage collected, and increased time spent picking up garbage on each route beyond what was attributable to the number of verified houses on the routes. Robinson testified that she realized the number of houses on the routes had increased, necessitating a house count to determine the actual number of houses on the routes. She performed an informal house count that revealed a total of 23,920 houses, significantly more than the 21,205 houses that Waste Management had been paying for. Robinson testified that she told Waste Management that "our routes are growing." She maintained that, despite the additional houses and corresponding difficulties and expenses of servicing those houses, RKC always managed to get all the garbage collected.

¶59. David Starks, owner of RKC contracting, echoed Robinson's testimony about the increase in problems and expenses attributable to collecting garbage from additional houses. He testified that, each time he spoke with Funderburg, they discussed a house count and

Starks would say that he was ready to do a house count at any time. Starks also informed Jackson Ramelli that RKC was picking up trash from more houses than Jackson Ramelli was being paid for. Owner Robert Ramelli testified that he repeatedly communicated the need for a house count to Waste Management. According to Robert Ramelli, Waste Management routinely communicated that it was amenable to a house count, but he—Ramelli—thought that this was “smoke and mirror[s]” because no house count ever occurred. In October 2014, Robert Ramelli wrote to Funderburg formally requesting a house count to verify the actual number of houses being serviced.

¶60. Funderburg responded that Waste Management was “agreeable to a joint house count verifying the number of homes serviced by Jackson Ramelli.” He said that Waste Management would invite the City to participate because Waste Management would need compensation from the City for any additional houses for which it was not being paid. Funderburg “suggest[ed] that we postpone any discussion of an increase in your compensation until after the house count is completed.” Starks responded that he and Robert Ramelli agreed with the entirety of Funderburg’s letter. Robert Ramelli testified that, in light of Waste Management’s refusal to compensate Jackson Ramelli for additional houses until they were verified by a joint house count, it did not invoice Waste Management for any additional houses. He explained this was because he could not afford for Waste Management to dispute the bill.

¶61. This evidence, if believed by a jury, showed sufficiently that the dispute was over the number of houses on the routes, not over whether Jackson Ramelli would be compensated

or not compensated for each and every house from which it collected garbage. Reasonable jurors could find that Funderburg did not refuse to pay Jackson Ramelli for all houses serviced but rather that Funderburg and Jackson Ramelli disagreed about the number of houses that were being serviced. In fact, the whole point of a joint house count was to verify the correct number for payment purposes. Funderburg testified that, in his opinion, the number of houses along the routes had decreased, not increased, and a joint house count was necessary to resolve the parties' disagreement and to determine how many houses Jackson Ramelli actually was servicing. Funderburg never disputed that once that number was verified, Jackson Ramelli would be compensated accordingly. Viewed in the light most favorable to Jackson Ramelli, there was sufficient evidence from which reasonable jurors could conclude that it reasonably expected to be compensated for each and every house serviced. Conversely, the evidence showed sufficiently that the parties had no agreement or expectation that Jackson Ramelli would collect the garbage from additional houses free of charge.

¶62. The majority adopts the position of the dissent in the Court of Appeals that because Jackson Ramelli's invoices did not bill for additional houses and because the parties never reached an agreement on additional compensation, no reasonable jury could find that Jackson Ramelli reasonably expected payment for each and every house from which it collected garbage. I would hold that the evidence was such that reasonable minds could differ. As explained above, there was sufficient evidence of a discussion for Waste Management to pay for every house serviced, but there was no agreement on the number of houses. A reasonable

jury could rely on Robert Ramelli's testimony, as supported by the parties' correspondence, that Jackson Ramelli did not invoice for the additional houses because the parties were in negotiation to establish the exact number of houses. The invoices did not, as a matter of law, negate the evidence that the parties had contemplated an arrangement for payment on a per-house basis. Therefore, the majority errs by deeming the evidence insufficient to show that Jackson Ramelli had a reasonable expectation of compensation for whatever the true number of houses turned out to be. Jackson Ramelli is entitled to the opportunity to prove at trial that it serviced houses on the routes assigned by Waste Management for which it went uncompensated.

¶63. In conclusion, Jackson Ramelli presented sufficient evidence on every element of *quantum meruit*. Jackson Ramelli showed sufficiently that it performed a valuable service at Waste Management's request, that Waste Management accepted that service, and that Jackson Ramelli had a reasonable expectation of payment for that service and reasonably notified Waste Management that it expected to be paid for it. Jackson Ramelli presented plenty of evidence that neither party expected it to collect garbage from homes in the City of Jackson for the honor of it, without payment. Because Jackson Ramelli presented sufficient evidence to support a jury finding on each element of *quantum meruit*, I would affirm the decision of the Court of Appeals that remanded the *quantum meruit* claim for discovery and a new trial.

KING, P.J., JOINS THIS OPINION.