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<p>CONTROL SERVICES, LLC,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>MOST 40 EAST 5TH LLC,</p> <p style="text-align: center;">Defendant.</p>	<p>SUPERIOR COURT OF NEW JERSEY HUDSON COUNTY LAW DIVISION Special Civil Part</p> <p>CIVIL ACTION</p> <p>DOCKET #: HUD-DC-_____23</p> <p>COMPLAINT</p>
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Plaintiff Control Services, LLC (hereinafter “Plaintiff”), by and through its counsel, M. Ross & Associates, LLC, makes the following allegations as against Defendant Most 40 East 5th LLC (“Defendant”):

THE PARTIES

1. Plaintiff is a limited liability company organized under the laws of the State of New Jersey, and its principal place of business is located at 84 Harbor Dr., Jersey City, New Jersey 07035. Plaintiff provides a full spectrum of construction- and demolition-related services throughout the New York metropolitan area.

2. Defendant is a limited liability company organized under the laws of the State of New Jersey; according to records Defendant submitted with the Department of Treasury, Defendant’s main business address is located at 1244 40th St., Brooklyn, New York 11218, and

Defendant's service of process address is c/o Aron Moster, 40 E. 5th St., Bayonne, New Jersey 07002. Upon information and belief, Defendant owns the real property located at the service-of-process address of 40 E. 5th St., Bayonne, New Jersey 07002 ("Defendant's Property").

JURISDICTION

3. Pursuant to R. 4:3-1(a)(5), all actions in Superior Court for money damages shall be filed and heard in the Law Division, Civil Part, or the Law Division, Special Civil Part. Pursuant to R. 6:1-2(a)(1), civil actions for money damages shall be cognizable in the Special Civil Part unless the amount in controversy exceeds \$20,000.

4. Jurisdiction in the Special Civil Part is proper in this action because Plaintiff is filing suit for money damages, and because the amount in controversy does not exceed the aforementioned monetary limit of the Special Civil Part.

VENUE

5. Pursuant to R. 6:1-3(a), venue shall be laid in the county in which at least one defendant in the action resides, or if all defendants are non-residents of this State, then in the county in which the cause of action arose.

6. Venue in Hudson County is proper in this action because, as detailed below, Plaintiff's cause of action arose in Hudson County.

STATEMENT OF FACTS

7. On or about April 15, 2023, a fire was reported at Defendant's Property, as well as the neighboring properties of 38 East 5th Street and 42 East 5th Street.

8. At approximately 4:15 a.m., the Bayonne Fire Department was dispatched, and due to heavy fire conditions in the three structures, the fire progressed to five alarms.

9. The Bayonne Fire Department was ultimately able to extinguish the fire, but it resulted in complete damage to Defendant's Property.

10. The City of Bayonne inspected Defendant's Property, and determined that the remaining structure needed to be immediately demolished because it was structurally unsafe and posed a serious hazard.

13. Plaintiff agreed to assist with the demolition, and conducted the following work on Defendant's Property: (a) disconnected all water and sewer lines; (b) backfilled the excavation pursuant to all local ordinances; (c) supplied and placed the asphalt into all openings; (d) obtained all necessary "No Parking" signs; (e) hired police personnel for traffic control; (f) secured the damaged fence; and (g) obtained all the required permits.

14. The original amount owed to Plaintiff in exchange for the foregoing work was \$16,200.00. Defendant has paid Plaintiff a total of \$8,200.00, leaving a current outstanding balance of \$8,000.00.

15. Plaintiff has demanded payment from Defendant for the remaining \$8,000.00, but to date, Defendant has refused Plaintiff's requests, and this outstanding amount remains due and owing.

**FIRST COUNT
BREACH OF CONTRACT**

16. Plaintiff repeats the facts, circumstances, and allegations set forth above as if they are set forth at length herein.

17. The elements of a cause of action for breach of contract are: (1) a valid agreement between the parties; (2) one of the parties failed to perform a defined obligation under the contract; and (3) the breach caused the aggrieved party to sustain damages.

18. As set forth above, Defendant entered into an agreement with Plaintiff to assist with the demolition of Defendant's Property.

19. Plaintiff promptly and dutifully performed all the work that was requested in good faith, and there have been no unresolved issues and/or complaints regarding the quality of same.

20. However, despite the foregoing, Defendant has failed to pay Plaintiff as agreed in the agreement between the parties.

WHEREFORE, Plaintiff demands judgment against Defendant in the amount of \$8,000.00, as well as any other such damages or amounts that the Court deems just and proper, including but not limited to costs, interest, and attorneys' fees.

**SECOND COUNT
UNJUST ENRICHMENT**

21. Plaintiff repeats the facts, circumstances, and allegations set forth above as if they are set forth at length herein.

22. The doctrine of unjust enrichment rests on the equitable principle that a person shall not be allowed to enrich himself unjustly at the expense of another. The elements of unjust enrichment are that (1) a defendant received a benefit, and (2) retention of the benefit without payment therefor would be unjust.

23. As set forth above, Defendant requested that Plaintiff assist with the demolition of Defendant's Property.

24. Plaintiff promptly and dutifully performed all the work that was requested in good faith, and there have been no unresolved issues and/or complaints regarding the quality of same.

25. Defendant received the benefit of all the demolition-related work that Plaintiff conducted on and around Defendant's Property.

26. However, despite the foregoing, Defendant has failed to pay Plaintiff as agreed, and as a result, Defendant has been unjustly enriched.

WHEREFORE, Plaintiff demands judgment against Defendant in the amount of \$8,000.00, as well as any other such damages or amounts that the Court deems just and proper, including but not limited to costs, interest, and attorneys' fees.

**THIRD COUNT
QUANTUM MERUIT**

27. Plaintiff repeats the facts, circumstances, and allegations set forth above as if they are set forth at length herein.

28. The equitable doctrine of quantum meruit allows the performing party to recoup the reasonable value of services rendered. The elements are (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.

29. As set forth above, Defendant requested that Plaintiff assist with the demolition of Defendant's Property.

30. Plaintiff promptly and dutifully performed all the work that was requested in good faith, and there have been no unresolved issues and/or complaints regarding the quality of same.

31. Defendant accepted the services rendered by Plaintiff, and as a result, Plaintiff had an expectation of compensation therefor.

32. However, despite the foregoing, Plaintiff has not yet received the reasonable value from Defendant of the services provided.

WHEREFORE, Plaintiff demands judgment against Defendant in the amount of \$8,000.00, as well as any other such damages or amounts that the Court deems just and proper, including but not limited to costs, interest, and attorneys' fees.

**FOURTH COUNT
ACCOUNT STATED**

33. Plaintiff repeats the facts, circumstances, and allegations set forth above as if they are set forth at length herein.

34. The doctrine of account stated provides that parties have a duty to examine statements and invoices with reasonable dispatch and reasonable care, and to inform the creditor of any errors discovered therein; if the party fails to do so, then the account will be treated as an account stated.

35. As set forth above, Defendant requested that Plaintiff assist with the demolition of Defendant's Property.

36. Plaintiff promptly and dutifully performed all the work that was requested in good faith, and there have been no unresolved issues and/or complaints regarding the quality of same.

37. Plaintiff mailed invoices to Defendant, and Defendant failed to proffer any type of bona fide dispute as to why the claimed amount is not due and owing.

38. Defendant's failure to timely dispute and/or challenge the amount owing entitles Plaintiff to a judgment pursuant to the doctrine of an account stated.

WHEREFORE, Plaintiff demands judgment against Defendant in the amount of \$8,000.00, as well as any other such damages or amounts that the Court deems just and proper, including but not limited to costs, interest, and attorneys' fees.

**CERTIFICATION OF NO OTHER ACTIONS PENDING
PURSUANT TO R. 4:5-1(b)(2)**

I certify that, to the best of my knowledge, the matter in controversy is not the subject of any other action pending in any other court, or in any pending arbitration proceeding, and that no other action or arbitration proceeding is being contemplated at this time. I further certify that, to

the best of my knowledge, I know of no other non-party who should be joined in this action pursuant to R. 4:28 or who is subject to joinder pursuant to R. 4:29-1(b) because of potential liability to any party on the basis of the same transactional facts. I recognize that I have a continuing obligation during the course of this litigation to file and serve on all other parties and with the court an amended certification if there is a change in the facts so stated herein.

**CERTIFICATION OF REDACTION
PURSUANT TO R. 1:38-7(c)**

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future accordance with R. 1:38-7(b).

**DESIGNATION OF TRIAL COUNSEL
PURSUANT TO R. 4:5-1(c)**

Pursuant to R. 4:5-1(c), Carl E. Zapffe, Esq., be and is hereby designated as trial counsel for Plaintiff in this matter.

M. ROSS & ASSOCIATES LLC
Attorneys for Plaintiff

Dated: September 1, 2023

By: /s/ Carl E. Zapffe
Carl E. Zapffe, Esq.