STATE OF MAINE

SKOWHEGAN, SS.

COPY

TWELFTH DISTRICT COURT
DIVISION OF SOMERSET
CIVIL ACTION
DOCKET NO.

SHERWIN WILLIAM COMPANY, Plaintiff vs. Defendant	]]]]]]]]]]	**REDACTED** NOTICE AND ACKNOWLEDGMENT FOR SERVICE BY MAIL PURSUANT TO MAINE RULE OF CIVIL PROCEDURE 4(c)(1)

TO:

The enclosed Summons and Complaint are served pursuant to Rule 4(c)(1) of the Maine Rules of Civil Procedure. The Complaint is self explanatory. This matter is civil not criminal.

Please complete the acknowledgment at the bottom of this form and return one copy of the completed form in the enclosed postage-paid return envelope so that it will be received by the sender within 20 days of the date of mailing.

You will note that the Summons required that an Answer be filed to this Complaint within 20 days from the date you acknowledge receipt of this notice. Judgment by default might be entered against if an Answer is not filed.

Dated: July 20, 1994

Richard N. Hewes
Richard N. Hewes, Esquire
Attorney for Plaintiff

HEWES & NYE
48 Free Street
Portland, Maine 04101
(207) 773-2000

ACKNOWLEDGMENT OF RECEIPT
OF SUMMONS AND COMPLAINT

I acknowledge that I received a copy of the Summons and Complaint relative to the above-captioned matter, on the date listed below. I understand that, to avoid judgment by default against me, I must file an Answer to this Complaint with Superior Court in Cumberland County located in Portland, Maine as required by the Summons.

Date: ______________________ Signed: ______________________
Defendant

acknowlg.lvt

STATE OF MAINE
SKOWHEGAN, SS.

TWELFTH DISTRICT COURT
DIVISION OF SOMERSET
DOCKET NO.

SHERWIN WILLIAMS COMPANY,]
]
Plaintiff]
]
vs.] COMPLAINT
]
]
]
Defendant] **REDACTED**

NOW COMES Sherwin Williams Company, Plaintiff, and complains against as follows:

1. Sherwin Williams Company is a corporation licensed to do business in the State of Maine;

2. Defendant, is a resident of Skowhegan, County of Somerset, State of Maine;

3. On or about January 29, 1990, sustained a work-related injury in the course of his employment at Sherwin Williams Company;

4. has received workers' compensation benefits reflecting 70% incapacity since January 29, 1990 on account of the injury;

5. average weekly wage was set at $830.91 in the September 25, 1991 Decree issued by the Maine Workers' Compensation Commission;

6. has received $387.75 per week in workers' compensation benefits since August 21, 1990;

7. From August 21, 1990 through October 1, 1991, a period of 58.2857 weeks, received $471.87 per week in long term disability benefits for a total of $27,503.27;

8. From October 2, 1991 through February 29, 1992, a period of 21.428 weeks, received $259.81 per week in long term disability benefits for a total of $5,567.20;

9. From August 21, 1990 through February 29, 1992, received a total of $33,070.48 in long term disability benefits from Sherwin Williams Company;

REDACTED

10. Sherwin Williams Company was self-insured and made these payments to

11. From August 21, 1990 through October 1, 1991, a period of 58.2857 weeks, received $125.27 per week for a total of $7,301.44 in workers' compensation benefits from Plaintiff's workers' compensation insurance carrier on account of the compensable January 29, 1990 injury;

12. From October 2, 1991 through February 29, 1992, a period of 21.428 weeks, received $259.81 per week in workers' compensation benefits for a total of $5,567.20 from Plaintiff's workers' compensation insurance carrier;

13. received a total of $12,868.64 in workers' compensation benefits from August 21, 1990 through February 29, 1992;

14. Pursuant to Sherwin Williams Company's long term disability contract, Sherwin Williams Company was entitled to reduce long term disability benefit payments by the amount of workers' compensation benefits received by for any period during which received workers' compensation benefits; (see attached Exhibit A, pages 15 and 16 of "Benefits in Perspective Income If You Are Disabled".)

15. was entitled to receive, and did receive, $33,070.48 from Sherwin Williams Company for long term disability benefits between August 21, 1990 and February 29, 1992. received $12,868.19 in workers' compensation benefits during this period. did not reimburse Sherwin Williams Company for these workers' compensation benefits received while he received long term disability benefits;

16. Sherwin Williams had a right to receive from the amounts that received in workers' compensation benefits;

17. Sherwin Williams Companv had a right to possess the workers' compensation benefits that received while he received long term disability benefits;

18. Sherwin Williams Company has demanded possession of the amounts that received in workers' compensation benefits from August 21, 1990 through February 29, 1992. has refused to repay these amounts to Sherwin Williams Company. This has resulted in an overpayment to in the amount of $8,324.17. Sherwin Williams has a right to recoup this overpayment.

WHEREFORE, Plaintiff demands judgment against Defendant in the amount of $8,324.17 plus interest and costs.

Dated at Portland, Maine this 20th day of July, 1994.

Richard N. Hewes

Richard N. Hewes, Esquire
Attorney for Plaintiff

HEWES & NYE
48 Free Street
Portland, Maine 04101
(207) 773-2000

complaint.lvt

EXHIBIT A

Benefits in Perspective

INCOME IF YOU ARE DISABLED

A Summary Of

The Sherwin-Williams Company Disability Plans For Salaried Employees

(and other employees approved for coverage under these plans)

(007-SWP-005802987
CONFIDENTIAL

N41625.02

will mean that a new Benefit Waiting Period will begin upon any subsequent absence due to Disability. For example: if you had been absent for eight (8) weeks and returned for five (5) weeks, a new Benefit Waiting Period would begin if you again were absent as a result of a Disability.

Amount Payable

The Long Term Disability Plan assures you a monthly benefit of 60% (from all sources, see "Coordination Of Benefits" on Page 15) of your monthly Basic Earnings at the time your absence due to a Disability began, up to a maximum benefit of $7,500 per month. If your Basic Earnings increase while you are under a Disability and not in active service, the increase will not be effective for purposes of the benefit calculation under the Long Term Disability Plan.

"Basic Earnings" means your wages for a normal work week of no more than 40 hours. Basic Earnings includes scheduled overtime for eligible store employees, and a three-year average of contractual bonuses for eligible employees in sales, but excludes all other forms of overtime, bonus, incentive pay, or additional compensation. Basic Earnings are increased by the amount of your pre-tax contributions made to other benefit plans.

Coordination of Benefits

Long Term Disability Plan benefits will be reduced by the following other income items payable to you for the same period that Long Term Disability benefits under this Plan are payable:

1. Any periodic cash payments provided as a result of your Disability, including but not limited to:
   (a) Payments under any other group insurance coverage or similar arrangements of coverage for individuals in a group;

See Page 16 also

   (b) Payments by the Federal Social Security Act on your behalf;
   (c) Payments by any state or federal government disability or retirement plan;
   (d) Payments under any pension plan with respect to which the Company contributes or makes payroll deductions;
   (e) Payments under any state or federal workers' compensation laws or similar laws.
2. Lump Sum Payment under any state or federal workers' compensation laws or similar laws which is made solely for loss of income due to your disability, including any amounts paid to you in conjunction with any compromise or release of a claim under such laws.
3. Payments of any Federal Old Age Benefits provided under the Federal Social Security Act on your own behalf.
4. However, if the sum of
   (a) Your Long Term Disability benefits as adjusted above, and
   (b) All the other income items payable for the same monthly period as listed above, and
   (c) Any payments made under the Federal Social Security Act to your dependents for the same monthly period on account of your Disability, and
   (d) Any payments of any Federal Old Age Benefits provided under the Federal Social Security Act which are payable to your spouse, under your account, for the same monthly period

   exceeds 70% of your Basic Earnings your benefit will be further reduced so that the sum of the benefits payable under item 4(a) and the amounts payable under items 4(b), 4(c) and 4(d) above equals no more than 70% of your Basic Earnings.