

# 'Thomas' toymaker settles suit over lead for \$30M

By Julie Schmit  
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The maker of Thomas & Friends Wooden Railway toys has agreed to a \$30 million class-action settlement stemming from last year's recalls, the first in what's expected to be a wave of settlements related to millions of toys recalled because of lead paint.

RC2's (RCRC) proposed settlement received preliminary approval in the Circuit Court of Cook County, Ill., Tuesday. It calls for reimbursements for hundreds of thousands of consumers and improved product safety, which RC2 says it has implemented.

Consumers would be reimbursed in cash for recalled toys or offered a replacement plus a bonus toy if they prefer. Customers who lack toys and proof of purchase can get \$15 coupons.

The \$30 million doesn't include \$2.9 million in legal fees.

The Thomas recall — covering 1.5 million toys in June followed by 200,000 in September — was the first to raise global concerns about excessive levels of lead paint in toys made in China.

In the 12 months ended Sept. 30, 19 of 61 U.S. toy recalls were because of lead paint, the Consumer Product Safety Commission says.

"The trend has continued in 2008," as companies increasingly test for and find more lead paint, says CPSC spokesman Scott Wolfson.

As part of the settlement, RC2 promised to step up testing and auditing of materials, improve communication between U.S. workers and those overseas, and require contract manufacturers to meet its testing and auditing standards.

Before the recalls, RC2 had some quality controls but relied too much on what its Chinese manufacturer told it, says Jay Edelson, the lead plaintiff's counsel and an attorney at KamberEdelson.

He says RC2 didn't rigorously check whether the Chinese firm tested paint and how well it was done. Sometimes, positive test results weren't conveyed from China to RC2 representatives in the USA, he says.

RC2 dropped the Chinese manufacturer after the recall. In a statement Tuesday, CEO Curt Stoelting said the company did random testing before the recall quarterly or twice a year, "like much of the industry."

Since the recall, RC2 increased testing of materials and toys, set tougher standards for manufacturers and paint suppliers and increased random inspections and audits. It also requires lab test results for every batch of wet paint.

Mattel (MAT), which faces 17 U.S. lawsuits over its toy recalls, and other toymakers also have raised quality controls.

The Toy Industry Association has asked Congress to mandate toy safety testing, which is now voluntary. The Consumer Federation of America says TIA's proposals aren't strict enough.

Final court approval of the RC2 settlement is expected in May, Edelson says.