

# NEWS

## Clarendon Hills mom suing toy company

By ERIC MARTIN  
STAFF WRITER

Harold the Helicopter was supposed to be guaranteed for a lifetime, according to a pending lawsuit.

Instead, after Harold broke, the maker of the popular Thomas the Tank Engine toys told a Clarendon Hills mom that the lifetime warranty would no longer be honored, according to the woman's lawyer.

Now, Lacey Brady is suing the maker of the helicopter, the tank engine and Cranky the Crane in Cook County court.

In 2003, Oak Brook-based RC2 Corp. purchased Learning Curve, the company that

makes the Thomas the Tank Engine toys, as well as others, according to the lawsuit.

Later, RC2 turned the lifetime warranty into a 90-day limited warranty.

"Instead of changing the warranty from purchases from that point forward, they made it retroactive and applied it to all products that had been sold prior to that time," said Thomas Zimmermann, a Chicago attorney representing Brady.

"That's a breach of warranty," he said.

An attorney and a spokeswoman for the company could not be reached for comment. The company has yet to file an answer to the original com-

plaint, filed in February.

Brady is joined in the lawsuit by another Chicago area mother who purchased a Cranky the Crane toy that later broke.

Zimmermann is seeking to make the case a class-action lawsuit, which could include anyone who has had a Learning Curve toy break under the lifetime warranty and has been unable to get a repair or replacement.

The lawsuit seeks monetary damages for broken toys and asks the court to order the company to follow the lifetime warranty.

Brady has purchased more than \$5,000 in Thomas the Tank Engine toys for her son,

Christopher, 5. The characters — trains and other vehicles with human-like faces — are from the children's show, "Thomas the Tank Engine and Friends."

"All Learning Curve toys are unconditionally guaranteed for life!" read two Learning Curve fliers — attached to the lawsuit — for the Thomas the Tank Engine toys.

Harold the Helicopter does not appear on the flier, but the document does include more than 40 other characters from the popular show, including Thomas the Tank Engine and James the Red Engine.

Zimmermann said Brady and others paid a higher price for Thomas the Tank Engine prod-

ucts in part because of the lifetime guarantee.

"Because of the longevity of the product, they were willing to pay a premium for it," the lawyer said.

Professor Joseph Stone, director of Loyola University's Business Law Center, said that based on the statement on the flier, a company probably would have to go along with the original lifetime warranty.

Still, Stone said much will depend on the terms of RC2's acquisition of Learning Curve.

"Whether or not they can disassociate themselves from the warranty of a prior company is a question the court is going to have to consider," Stone said.