

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

**WILLIAM T. TERRELL and MARTHA M. TERRELL v. UNITED VAN
LINES, INC., KWICK-WAY TRANSPORTATION COMPANY, and
VANLINER INSURANCE CO.**

**Direct Appeal from the Chancery Court for Knox County
No. 156744 Hon. Daryl R. Fansler, Chancellor**

No. E2004-00407-COA-R3-CV - FILED APRIL 29, 2005

CHARLES D. SUSANO, JR., concurring.

I agree with the result reached by the majority. With respect to the motion to amend, I believe the trial court should have entered an order allowing the amendment; after which it could have entered its order dismissing the plaintiffs' claim. I believe this is the better practice under Tenn. R. Civ. P. 15. However, since the trial court addressed the merits of the complaint, as if it had been amended, any error in refusing to formally allow the amendment is harmless in nature. *See* Tenn. R. App. P. 36 (b).

CHARLES D. SUSANO, JR., JUDGE