

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

BANK OF AMERICA,	:	APPEAL NO. C-150096
Plaintiff-Appellee,	:	TRIAL NO. A-1402781
vs.	:	<i>JUDGMENT ENTRY.</i>
MARILYN JOHNSON-RHODES,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Plaintiff-appellee Bank of America (“BOA”) sued defendant-appellant Marilyn Johnson-Rhodes for foreclosure, asserting that Johnson-Rhodes had defaulted on her mortgage. Johnson-Rhodes counterclaimed, and sought damages from BOA attributable to her claim that she did not sign the mortgage at issue, as well as claims that BOA had mishandled the case. BOA moved to dismiss the counterclaim under Civ.R. 12(B)(6). The trial court granted BOA’s motion and indicated on its judgment entry that there was “no just cause for delay.” This appeal followed.

In her first assignment of error, Johnson-Rhodes contends that the trial court erred in dismissing her counterclaim. We review the trial court’s judgment de novo. *Perrysburg Twp. v. Rossford*, 103 Ohio St.3d 79, 2004-Ohio-4362, 814 N.E.2d 44, ¶ 5. Upon a review of her counterclaim, accepting the allegations in it as true, and construing all reasonable inferences in Johnson-Rhodes’s favor, we hold that Johnson-Rhodes has asserted no set of facts that would entitle her to relief. *See O’Brien v. Univ. Community Tenants Union, Inc.*, 42 Ohio St.2d 242, 327 N.E.2d 753

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(1975), syllabus; *Mitchell v. Lawson Milk Co.*, 40 Ohio St.3d 190, 192, 532 N.E.2d 753 (1988). We therefore hold that the trial court did not err when it dismissed Johnson-Rhodes's counterclaim pursuant to Civ.R. 12(B)(6). Johnson-Rhodes's first assignment of error is overruled.

In her second assignment of error, Johnson-Rhodes contends that the trial court erred when it denied her motion for leave to amend her counterclaim. We find no abuse of discretion in the trial court's decision, because Johnson-Rhodes failed to make a prima-facie showing of matters she sought to plead had leave been granted. *See Wilmington Steele Prod., Inc. v. Cleveland Elec. Illum. Co.*, 60 Ohio St.3d 120, 123, 573 N.E.2d 622 (1991). Johnson-Rhodes's second assignment of error is overruled.

We affirm the trial court's judgment.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**CUNNINGHAM, P.J., DEWINE and STAUTBERG, JJ.**

To the clerk:

Enter upon the journal of the court on October 21, 2015  
per order of the court \_\_\_\_\_.

Presiding Judge