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

STEVEN JOHNSON,	:	APPEAL NO. C-260161 TRIAL NO. A-2600675
Plaintiff-Appellant,	:	
vs.	:	*JUDGMENT ENTRY*
OHIO DEPARTMENT OF HEALTH,	:	
STATE REGISTRAR OHIO BUREAU OF VITAL STATISTICS,	:	
and	:	
JOHN/JANE DOES 1-10,	:	
Defendants-Appellees.	:	

NESTOR, Judge.

This court sua sponte removes this cause from the regular calendar and places it on the court's accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

Steven Johnson sued the Ohio Department of Health and others for a declaratory judgment. The defendants moved to dismiss the complaint for failure to state a claim. The trial court granted the motion to dismiss with prejudice. Johnson appealed raising three assignments of error. Because Johnson failed to state a claim, we affirm the trial court's judgment dismissing the complaint. However, because Johnson could amend his complaint to state a claim, we modify the trial court's judgment to reflect a dismissal of the complaint without prejudice.

Johnson filed a complaint against the Ohio Department of Health, the State Registrar, the Ohio Bureau of Vital Statistics, and John/Jane Does 1-10. His complaint

said, "Plaintiff seeks declaratory and prospective injunctive relief concerning the scope of Defendants' statutory authority over a vital record maintained by the Ohio Bureau of Vital Statistics. *See* R.C. 3705.01 et seq." Johnson never stated what the vital record was. He brought five causes of action for declaratory judgment, prospective equitable relief, resulting trust, ultra vires administrative action, and quiet title to equitable interest.

The defendants filed a motion to dismiss on March 11, 2026. The defendants argued "The Complaint contains no factual allegations of any illegal practices or activity by any Defendant that can be relieved in a declaration or by injunction or put Defendants on notice of the actions leading to the claim."

The court granted the motion on March 27, 2026, at 11:17 a.m. The court specifically noted that Johnson did not oppose the motion to dismiss and that he "failed to state a valid claim for relief." The court also stated, "The Complaint does not provide enough facts to establish a plausible right to relief, as required under Ohio law." Johnson then filed a motion in opposition to the motion to dismiss on March 27, 2026, at 3:35 p.m. Johnson did not explain why his motion was untimely. The court entered the final and appealable order on April 1, 2026. Johnson now appeals raising three assignments of error.

In his first assignment of error, Johnson argues the trial court used the federal plausibility standard instead of Ohio's notice-pleading standard.

Ohio is a notice-pleading state. *S&T Bank, Inc. v. Advance Merchant Servs., LLC*, 2024-Ohio-4757, ¶ 55, citing *Maternal Grandmother, ADMR v. Hamilton Cty. Dept. of Job & Family Servs.,* 2021-Ohio-4096, ¶ 10. Civ.R. 8(A) requires that a pleading set forth a "'short and plain statement of the claim showing that the party is entitled to relief.'" *Id.* at ¶ 55. "This standard is different from the heightened federal

plausibility standard of pleading, which has not been adopted by the Ohio Supreme Court." *Id.*, citing *Maternal Grandmother* at ¶ 21-28. "Thus, notice pleading does not require that the claim have 'facial plausibility.'" *Id.*, citing *Maternal Grandmother* at ¶ 27-28. "Rather, a claim must 'set forth only those operative facts sufficient to give fair notice of the nature of the action.'" *Id.*, quoting *Ri'Chard v. Bank of Am.*, 2020-Ohio-4688, ¶ 8 (1st Dist.). However, "any error would be harmless because we review this matter de novo." *Allstate Ins. Co. v. Electrolux Home Prods. Inc.*, 2012-Ohio-90, ¶ 6 (8th Dist.). Johnson never stated the record held by the Department of Health that is the basis of his complaint. We overrule his first assignment of error.

Second, Johnson argues the trial court erred in dismissing his complaint because the complaint stated a claim for declaratory and equitable relief. We review a trial court's judgment to grant a motion to dismiss de novo. *Watkins v. Equifax Information Servs., LLC*, 2026-Ohio-2802, ¶ 6 (1st Dist.), citing *Fox Consulting Group, Inc. v. Mailing Servs. of Pittsburgh, Inc.*, 2022-Ohio-1215, ¶ 7 (1st Dist.).

A motion to dismiss "tests the sufficiency of the complaint." *Id.*, citing *Fox Consulting Group* at ¶ 6. We "'must accept all factual allegations in the complaint as true and draw all reasonable inferences in favor of the nonmoving party.'" *Id.* "Dismissal is only appropriate where it appears, beyond doubt, that the plaintiff cannot prove a set of facts that would entitle them to recover." *Id.*

When reading the complaint and accepting everything as true, it is not clear what conduct Johnson is challenging. He has failed to put the defendants on notice of what they are being sued for. There are very few factual allegations. What is alleged does not establish a controversy between the parties. The trial court did not err in dismissing Johnson's complaint. We overrule his second assignment of error.

In his last assignment of error, Johnson argues the trial court should not have dismissed the complaint with prejudice. "A dismissal with prejudice operates as an adjudication on the merits." *Fletcher v. Univ. Hosps. of Cleveland*, 2008-Ohio-5379, ¶ 16, citing *Thomas v. Freeman*, 79 Ohio St.3d 221, 225, fn. 2 (1997). "It is axiomatic, then, that a dismissal otherwise than on the merits should be without prejudice." *Id.*, citing *Thomas* at 221. "[A] dismissal for failure to state a claim is without prejudice except in those cases where the claim cannot be pleaded in any other way." *Id.* at ¶ 17, citing *Collins v. Natl. City Bank*, 2003-Ohio-6893, ¶ 51 (2d Dist.). Here, Johnson could file a new complaint that includes facts about why he is entitled to the relief he seeks. The trial court should have dismissed the complaint without prejudice. Accordingly, we sustain his last assignment of error.

The trial court properly dismissed Johnson's complaint for failing to state a claim upon which relief could be granted but erred in dismissing the complaint with prejudice. We modify the trial court's judgment to reflect a dismissal of the complaint without prejudice and affirm the trial court's judgment as modified.

The court further orders that (1) a copy of this Judgment constitutes the mandate, (2) the mandate be sent to the trial court for execution under App.R. 27, and (3) costs shall be taxed 100% to Appellant.

KINSLEY, P.J., and **CROUSE, J.,** concur.

To the clerk:

Enter upon the journal of the court on 9/16/2026.

Pursuant to App.R. 30, the clerk is directed to send all parties, or their counsel if represented, a copy of the court's judgment and note such action on the docket.

By: Jennifer Kinsley
Administrative Judge