

IN THE COURT OF CLAIMS OF OHIO

ELHADJ ALPHA MAHMOUD SQUARE	Case No. 2025-00966PQ
Requester	Special Master Sarah Pierce
v.	<u>REPORT AND RECOMMENDATION</u>
OHIO DEPARTMENT OF DEVELOPMENTAL DISABILITIES	
Respondent	

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{¶1} This matter is before me for a report and recommendation. R.C. 2743.75(F). I recommend that the Court (1) deny as moot respondent’s motion to dismiss, (2) deny requester R.C. 149.43(B) relief, (3) order requester to bear the costs of this case, and (4) deny all other relief.

**I. Background**

**A. The public records request**

{¶2} On October 30, 2025, Requester Elhadj Alpha Mahmoud Souare made a public records request to the Respondent Ohio Department of Developmental Disabilities. *Complaint, filed Nov. 24, 2025*, p. 1, 4. The request asked for:

[R]ecords showing the number of developmental disability service providers whose certifications or approvals were revoked, suspended, or terminated by DODD for each year from 2018 through 2025.

Specifically, please include: The total number of providers terminated each year; The number identified as minority-owned or Black-owned (if available); Any internal reports, summaries, or statistics on provider demographics or equity outcomes.

*Compl.*, p. 4.

{¶3} In his complaint, Requester asked this court to order “production of all requested records, statutory damages as permitted[, and] court costs.” *Compl.* p. 2. In

later filings, Requester states that he “does not seek mandamus or enforcement of public-records rights in this action” but instead “seeks monetary compensation” under “R.C. 2743.02 arising from unlawful, negligent, and reckless state action.” *Req. Mem. Opp. Resp. Motion to Dismiss, filed Feb. 2, 2026*, p. 1.

### **B. Procedural history**

{¶4} This matter was referred to mediation. Mediation did not resolve the case, and a schedule was set for both parties to file evidence and memoranda supporting their positions. *Order Terminating Mediation, entered Jan. 8, 2026*. That schedule has run its course, making this case ripe for decision.

{¶5} Requester improperly filed two motions without leave of the court or special master. *Req. Motion for Injunction, filed Feb. 5, 2026; Req. Mot. to Supplement Record, filed February 10, 2026*. The argument and evidence presented in these motions is therefore not considered in this report and recommendation. R.C. 2743.45(E)(2).

## **II. Analysis**

### **A. Respondent’s motion to dismiss should be denied as moot and addressed as a response to the complaint.**

{¶6} ODODD filed a motion to dismiss for lack of subject matter jurisdiction and failure to state a claim. *See Resp. Motion to Dismiss, filed Jan. 23, 2026*, p. 1, 4-5 (citing both a jurisdictional issue and an improper request for information). That motion, however, explicitly relies upon evidence outside of the complaint, which includes evidence that ODODD properly responded to the public records request. *See Resp. Ev., filed Jan. 23, 2026*, p. 4 ¶ 8. Therefore, ODODD’s motion should be considered a response to the complaint and denied as moot. *Hicks v. Village of Newtown, 2018-Ohio-1540, ¶ 13* (Ct. of Cl.). The substance of the motion is addressed below as a response to the complaint.

### **B. Requester asks for relief beyond the scope of R.C. 2743.45.**

{¶7} Requester argues for a variety of relief throughout his filings in this case. *See Req. Mem. Opp. MTD, p. 1; Req. Misc. Motion, filed Feb. 5, 2026*. In particular, Requester now states that he no longer seeks public records relief but instead seeks damages under R.C. 2743.02.

{¶8} This court is limited, however, to the R.C. 2743.45 complaint filed by Requester on November 24, 2025.<sup>1</sup> Nothing in R.C. 2743.75(F)(3) authorizes this Court to grant relief beyond ordering the production of specific records in response to specific requests. *See Trader v. Ontario Local School Dist.*, 2025-Ohio-2374, ¶ 5, adopted 2025-Ohio-2879 (Ct. of Cl.) (“R.C. 2743.75(A) grants this court jurisdiction to resolve disputes alleging a denial of access to public records in violation of [R.C. 149.43(B)], but does not otherwise give it jurisdiction over political subdivisions.”). Further, the statute does not permit recovery of statutory damages. *Doe v. Ohio State Univ.*, 2024-Ohio-5897, ¶ 53 (10th Dist.).

{¶9} Requester’s request for relief beyond the scope of R.C. 2743.45 should therefore be denied.

**C. Requester has not complied with R.C. 149.43(C) and is therefore not entitled to public records relief.**

{¶10} Effective April 9, 2025, the Ohio Public Records Act was amended to include new requirements for initiating a public records action in court. *See* 2024 Sub.H.B. No. 265; R.C. 149.43(C)(1), (2). Before filing a public records lawsuit, a person must first “serve pursuant to Rule 4 of the Ohio Rules of Civil Procedure a complaint, on a form prescribed by the clerk of the court of claims” on the public office. R.C. 149.43(C)(1). Next, the person must wait three business days before filing the complaint in court. R.C. 149.43(C)(1). Finally, the person is required to file with the court “a written affirmation” that confirms 1) the person “properly transmitted” the preliminary complaint to the public office, 2) the alleged public records violation has not been resolved, and 3) the preliminary complaint was transmitted at least three business days before filing in court. R.C. 149.43(C)(2).

{¶11} In this case, Requester filed the required affirmation with his complaint. *See Compl.*, p. 1. ODODD argues, however, that Requester failed to substantively comply

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<sup>1</sup> Requester attaches an “Amended Complaint” as an exhibit to his response to ODODD’s motion to dismiss. *See Req. Mem. Opp. MTD*, p. 4. Requester has not filed this document. Even if he had, that claim for relief would be outside the scope of this R.C. 2743.45 public records dispute resolution process.

with the R.C. 149.43(C)(1) requirements. *Resp. MTD*, p. 3-4. From the available record, it appears that Requester did not transmit a preliminary complaint at all. *Resp. Ev.*, p. 4.

{¶12} Accordingly, Requester did not serve his preliminary complaint as required by R.C. 149.43(C)(1). “R.C. 149.43(C)(1) requires the preliminary complaint to be served pursuant to Civ.R. 4. Service under Civ.R. 4 may be achieved through the methods set forth in Civ.R. 4.1 et seq.” *State ex rel. Claypool v. Cty. of Geauga*, 2025-Ohio-5863, ¶ 13 (11th Dist.). Requester therefore also did not “properly transmit[]” his preliminary complaint to the Parks and could not affirm as much. *Id.* at ¶ 16.

{¶13} I therefore recommend that the court dismiss Requester’s complaint pursuant to R.C. 149.43(C)(2). I make this recommendation as a merits determination of this matter, and not as a jurisdictional issue.

#### **D. Costs.**

{¶14} Revised Code 2743.75(F)(3)(b) provides that the Court shall award a requester their filing fee and “any other costs associated with the action” if it finds a violation of the Ohio Public Records Act. Because I find no violation, I recommend that the Requester bear his own filing fee and the balance of costs in this case.

### **III. Conclusion**

Based on the above considerations, I recommend that the court:

- 1) Deny as moot respondent’s motion to dismiss.
- 2) Deny requester R.C. 149.43(B) relief.
- 3) Order requester to bear the costs of this case.
- 4) Deny all other relief.

{¶15} *Pursuant to R.C. 2743.75(F)(2), either party may file a written objection with the clerk of the Court of Claims of Ohio within seven (7) business days after receiving this report and recommendation. Any objection shall be specific and state with particularity all grounds for the objection. A party shall not assign as error on appeal the court’s adoption of any factual findings or legal conclusions in this report and recommendation unless a timely objection was filed thereto. R.C. 2743.75(G)(1).*

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SARAH PIERCE  
Special Master

**Filed February 11, 2026**  
**Sent to S.C. Reporter 3/19/26**