

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

297

CA 08-02203

PRESENT: MARTOCHE, J.P., SMITH, CENTRA, FAHEY, AND PINE, JJ.

IN THE MATTER OF COUNTY OF NIAGARA,
PETITIONER-RESPONDENT,

V

ORDER

RICHARD F. DAINES, AS COMMISSIONER OF NEW YORK
STATE DEPARTMENT OF HEALTH, AND NEW YORK STATE
DEPARTMENT OF HEALTH, RESPONDENTS-APPELLANTS.

ANDREW M. CUOMO, ATTORNEY GENERAL, ALBANY (VICTOR PALADINO OF
COUNSEL), FOR RESPONDENTS-APPELLANTS.

WHITEMAN OSTERMAN & HANNA LLP, ALBANY (CHRISTOPHER E. BUCKEY OF
COUNSEL), FOR PETITIONER-RESPONDENT.

Appeal from a judgment (denominated order and judgment) of the
Supreme Court, Niagara County (Ralph A. Boniello, III, J.), entered
July 9, 2008 in a proceeding pursuant to CPLR article 78. The
judgment granted the petition.

It is hereby ORDERED that the judgment so appealed from is
unanimously affirmed without costs (see *Matter of County of Herkimer v
Daines*, ___ AD3d ___ [Mar. 27, 2009]).

Entered: March 27, 2009

JoAnn M. Wahl
Clerk of the Court