

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

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**CA 09-02023**

PRESENT: SCUDDER, P.J., PERADOTTO, LINDLEY, AND GORSKI, JJ.

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IN THE MATTER OF NIAGARA HOMEMAKER  
SERVICES, INC., DOING BUSINESS AS MERCY  
HOME CARE OF WESTERN NEW YORK,  
PETITIONER-RESPONDENT,

V

ORDER

RICHARD F. DAINES, M.D., AS COMMISSIONER  
OF HEALTH OF STATE OF NEW YORK, AND LAURA L.  
ANGLIN, AS DIRECTOR OF BUDGET OF STATE OF  
NEW YORK, RESPONDENTS-APPELLANTS.

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

HARTER SECREST & EMERY LLP, ROCHESTER (THOMAS G. SMITH OF COUNSEL),  
FOR PETITIONER-RESPONDENT.

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Appeal from a judgment (denominated order and judgment) of the  
Supreme Court, Erie County (Frank A. Sedita, Jr., J.), entered January  
9, 2009 in a proceeding pursuant to CPLR article 78. The judgment,  
among other things, granted the amended petition.

It is hereby ORDERED that the judgment so appealed from is  
unanimously affirmed without costs.

Entered: March 19, 2010

Patricia L. Morgan  
Clerk of the Court