

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

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CA 14-00926

PRESENT: SMITH, J.P., CARNI, LINDLEY, AND VALENTINO, JJ.

IN THE MATTER OF COUNTY OF JEFFERSON,
PETITIONER-PLAINTIFF-RESPONDENT-APPELLANT,

V

MEMORANDUM AND ORDER

NIRAV R. SHAH, M.D., M.P.H., COMMISSIONER,
NEW YORK STATE DEPARTMENT OF HEALTH AND
NEW YORK STATE DEPARTMENT OF HEALTH,
RESPONDENTS-DEFENDANTS-APPELLANTS-RESPONDENTS.
(APPEAL NO. 2.)

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (VICTOR PALADINO OF
COUNSEL), FOR RESPONDENTS-DEFENDANTS-APPELLANTS-RESPONDENTS.

WHITEMAN, OSTERMAN & HANNA LLP, ALBANY (CHRISTOPHER E. BUCKEY OF
COUNSEL), AND NANCY ROSE STORMER, P.C., UTICA, FOR
PETITIONER-PLAINTIFF-RESPONDENT-APPELLANT.

Appeal and cross appeal from a judgment (denominated order and judgment) of the Supreme Court, Jefferson County (Hugh A. Gilbert, J.), entered February 27, 2014 in a CPLR article 78 proceeding and declaratory judgment action. The judgment, among other things, annulled the determination of respondents-defendants and directed respondents-defendants to allow petitioner-plaintiff's claims for reimbursement.

It is hereby ORDERED that the judgment so appealed from is unanimously modified on the law by denying the petition-complaint in its entirety, and by granting judgment in favor of respondents-defendants as follows:

It is ADJUDGED and DECLARED that section 61 of part D of section 1 of chapter 56 of the Laws of 2012 has not been shown to be unconstitutional,

and as modified the judgment is affirmed without costs.

Same memorandum as in *Matter of County of Chautauqua v Shah* (___ AD3d ___ [Mar. 20, 2015]).

Entered: March 20, 2015

Frances E. Cafarell
Clerk of the Court