

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

**445**

**CA 10-02128**

PRESENT: SCUDDER, P.J., SMITH, LINDLEY, GREEN, AND GORSKI, JJ.

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IN THE MATTER OF COUNTY OF ERIE,  
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.

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

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

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Appeal from a judgment (denominated order and judgment) of the  
Supreme Court, Erie County (Donna M. Siwek, J.), entered July 15, 2010  
in a proceeding pursuant to CPLR article 78. The judgment, among  
other things, granted the second amended petition, directed  
respondents to reimburse petitioner the sum of \$3,582,807.37 and  
directed respondents to pay sanctions in the amount of \$11,674.48.

It is hereby ORDERED that the judgment so appealed from is  
unanimously modified on the law by vacating subparagraph (B) of the  
second decretal paragraph and vacating the third decretal paragraph  
and as modified the judgment is affirmed without costs (*see Matter of  
County of St. Lawrence v Daines*, 81 AD3d 212; *Matter of County of  
Niagara v Daines*, 79 AD3d 1702, 1705-1706).

Entered: April 29, 2011

Patricia L. Morgan  
Clerk of the Court