

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

58

**CA 14-02022**

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

---

IN THE MATTER OF COUNTY OF ORLEANS,  
PETITIONER-PLAINTIFF-RESPONDENT,

V

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.

---

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

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

---

Appeal from a judgment (denominated order) of the Supreme Court, Orleans County (James P. Punch, A.J.), entered October 1, 2014 in a CPLR article 78 proceeding and declaratory judgment action. The judgment, insofar as appealed from, granted the petition-complaint in part, 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 insofar as appealed from is unanimously reversed on the law without costs, the petition-complaint is denied in its entirety, and judgment is granted 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 (see *Matter of County of Chemung v Shah*, \_\_\_ NY3d \_\_\_ [Oct. 27, 2016]).

Entered: November 10, 2016

Frances E. Cafarell  
Clerk of the Court