

# IN THE SUPREME COURT OF TEXAS

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No. 05-0693

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ST. LUKE'S EPISCOPAL HOSPITAL, PETITIONER

v.

IRVING W. MARKS, RESPONDENT

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ON PETITION FOR REVIEW FROM THE  
COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

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## PER CURIAM

The petition for review is granted. Without reference to the merits, the court of appeals' judgment, 177 S.W.3d 255, is vacated and the case is remanded to the court of appeals for further consideration in light of our decision in *Diversicare General Partner, Inc. v. Rubio*, 185 S.W.3d 842 (Tex. 2005). See TEX. R. APP. P. 59.1, 60.2(f).

OPINION DELIVERED: May 5, 2006