IN THE SUPREME COURT OF TEXAS

==========

NO. 98-0350

==========

TITUS COUNTY HOSPITAL DISTRICT/
TITUS COUNTY MEMORIAL HOSPITAL, PETITIONER

v.

JAMES LUCAS AND MARILYN LUCAS, RESPONDENTS

==========

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

==========

PER CURIAM

The court of appeals held that petitioner's failure to supplement its discovery responses under Rule 166b(6) of the Texas Rules of Civil Procedure should have resulted in the exclusion of testimony at trial. 964 S.W.2d 144. Specifically, the court concluded that petitioner should have supplemented: (1) its answer to an interrogatory inquiring of persons with knowledge of relevant facts by naming additional persons whose identity had come to light, and (2) the deposition testimony of two of its employees to correct misstatements they made. Rule 166b(6) requires supplementation of a "response" to a "request for discovery". An interrogatory answer is a response to a request for discovery, but testimony in a deposition is not. A general duty to supplement deposition testimony (as opposed to a narrow duty for certain expert testimony, for example) would impose too great a burden on litigants. *See* FED. R. CIV. P. 26(e) advisory committee's note (1970

amendment). We therefore disapprove the court of appeals' holding that deposition testimony must be supplemented. However, we deny the petition for review.

Opinion delivered: October 15, 1998