

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

FOUNDATION MEDICINE, INC.,                   §  
  §  
v.   §   Case No. 2:16-CV-00523-JRG-RSP  
  §  
GUARDANT HEALTH, INC.,                   §

**ORDER**

Before the Court is the Report and Recommendation filed by Magistrate Judge Payne on February 15, 2017 (Dkt. No. 60) recommending that Guardant Health, Inc.’s motion to dismiss for failure to state a claim (Dkt. No. 29) be denied. No objections have been filed.

Accordingly, the Recommendation is ADOPTED. Guardant Health, Inc.’s motion to dismiss for failure to state a claim (Dkt. No. 29) is DENIED.

**So ORDERED and SIGNED this 21st day of March, 2017.**

  
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RODNEY GILSTRAP  
UNITED STATES DISTRICT JUDGE