

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

DONNA DIETZ,	)	Case No. CV 15-9904-SP
Plaintiff,	)	
v.	)	<b>MEMORANDUM OPINION AND ORDER ADOPTING REPORT AND RECOMMENDATION</b>
NANCY A. BERRYHILL, Acting Commissioner of Social Security Administration,	)	
Defendant.	)	

---

18 On May 18, 2017, the assigned magistrate judge issued a Report and  
19 Recommendation, recommending that the decision of the Commissioner of the  
20 Social Security Administration denying benefits to plaintiff be reversed, and that  
21 the case be remanded to the Commissioner. Defendant filed objections to the  
22 Report and Recommendation on June 1, 2017, and plaintiff responded to those  
23 objections on June 15, 2017.

24 Meanwhile, on May 19, 2017, plaintiff filed a statement of consent to have  
25 the magistrate judge conduct all proceedings in this case. As defendant had  
26 previously filed her statement of consent (much earlier, on February 24, 2016), on  
27 May 22, 2017 the case was reassigned to the magistrate judge for all further  
28 proceedings and final disposition. In defendant’s objections to the Report and

1 Recommendation, defendant also expressed disapproval of plaintiff's late consent,  
2 after a Report and Recommendation favorable to plaintiff had been issued.

3 The court appreciates and understands defendant's concerns about  
4 plaintiff's consenting to magistrate judge jurisdiction only after the Report and  
5 Recommendation was filed. Nonetheless, as defendant acknowledges, the Local  
6 Rules of this court plainly permit the parties to consent "at any time prior to the  
7 entry of judgment." L.R. 73-3. As such, plaintiff's consent is valid, and the case  
8 has been reassigned. But the court will not enter judgment without first  
9 considering defendant's objections since, with the Report and Recommendation,  
10 the court notified the parties they had the opportunity to file objections, and thus  
11 the court finds it appropriate that any objections filed be considered.

12 Accordingly, the court has considered defendant's objections, and has  
13 specifically reviewed again those portions of the Report and Recommendation to  
14 which defendant has objected. Defendant raises certain points with respect to the  
15 court's findings that the ALJ erred in making an incomplete residual functional  
16 capacity determination, and consequently erred in posing an incomplete  
17 hypothetical to the vocational expert. Although the court has carefully considered  
18 defendant's objections, they did not cause the court to reconsider its findings.

19 As such, the court adopts and incorporates by reference the findings in the  
20 Report and Recommendation. IT IS THEREFORE ORDERED that Judgment be  
21 entered reversing the decision of the Commissioner denying benefits, and  
22 remanding this action for further administrative proceedings consistent with the  
23 Report and Recommendation as incorporated into this Memorandum Opinion and  
24 Order.

25  
26 Dated: June 22, 2017



---

27 SHERI PYM  
28 United States Magistrate Judge