UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

PANCHALI TUSTI HUYNH, Plaintiff, v. NANCY BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY ADMINISTRATION, Defendant.	No. SA CV 16-1642-PLA **MEMORANDUM OPINION AND ORDER**

I.

PROCEEDINGS

Plaintiff filed this action on September 6, 2016, seeking review of the Commissioner's[1] denial of her applications for Disability Insurance Benefits ("DIB") and Supplemental Security Income ("SSI") payments. The parties filed Consents to proceed before the undersigned Magistrate Judge on September 29, 2016, and October 14, 2016. Pursuant to the Court's Order, the parties filed a Joint Submission (alternatively "JS") on June 23, 2017, that addresses their

[1] Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Nancy Berryhill, the current Acting Commissioner of Social Security, is hereby substituted as the defendant herein.

positions concerning the disputed issue in the case. The Court has taken the Joint Submission under submission without oral argument.

II.

BACKGROUND

Plaintiff was born on February 23, 1965. [Administrative Record ("AR") at 162, 169.] She has past relevant work experience as a bench assembler and a store laborer. [AR at 23, 44, 46-47.]

On August 27, 2013, plaintiff protectively filed an application for a period of disability and DIB, and an application for SSI payments, alleging that she has been unable to work since June 7, 2013. [AR at 15, 162-68, 169-75.] After her applications were denied initially and upon reconsideration, plaintiff timely filed a request for a hearing before an Administrative Law Judge ("ALJ"). [AR at 15, 95.] A hearing was held on December 23, 2014, at which time plaintiff appeared represented by an attorney, and testified on her own behalf. [AR at 30-50.] A vocational expert ("VE") also testified. [AR at 44-49.] On February 18, 2015, the ALJ issued a decision concluding that plaintiff was not under a disability from June 7, 2013, the alleged onset date, through February 18, 2015, the date of the decision. [AR at 15-24.] Plaintiff requested review of the ALJ's decision by the Appeals Council. [AR at 10-11.] When the Appeals Council denied plaintiff's request for review on July 6, 2016 [AR at 1-5], the ALJ's decision became the final decision of the Commissioner. See Sam v. Astrue, 550 F.3d 808, 810 (9th Cir. 2008) (per curiam) (citations omitted). This action followed.

III.

STANDARD OF REVIEW

Pursuant to 42 U.S.C. § 405(g), this Court has authority to review the Commissioner's decision to deny benefits. The decision will be disturbed only if it is not supported by substantial evidence or if it is based upon the application of improper legal standards. Berry v. Astrue, 622 F.3d 1228, 1231 (9th Cir. 2010) (citation omitted).

"Substantial evidence means more than a mere scintilla but less than a preponderance; it is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Carmickle v. Comm'r, Soc. Sec. Admin., 533 F.3d 1155, 1159 (9th Cir. 2008) (citation and internal quotation marks omitted); Reddick v. Chater, 157 F.3d 715, 720 (9th Cir. 1998) (same). When determining whether substantial evidence exists to support the Commissioner's decision, the Court examines the administrative record as a whole, considering adverse as well as supporting evidence. Mayes v. Massanari, 276 F.3d 453, 459 (9th Cir. 2001) (citation omitted); see Ryan v. Comm'r of Soc. Sec., 528 F.3d 1194, 1198 (9th Cir. 2008) ("[A] reviewing court must consider the entire record as a whole and may not affirm simply by isolating a specific quantum of supporting evidence.") (citation and internal quotation marks omitted). "Where evidence is susceptible to more than one rational interpretation, the ALJ's decision should be upheld." Ryan, 528 F.3d at 1198 (citation and internal quotation marks omitted); see Robbins v. Soc. Sec. Admin., 466 F.3d 880, 882 (9th Cir. 2006) ("If the evidence can support either affirming or reversing the ALJ's conclusion, [the reviewing court] may not substitute [its] judgment for that of the ALJ.") (citation omitted).

IV.

THE EVALUATION OF DISABILITY

Persons are "disabled" for purposes of receiving Social Security benefits if they are unable to engage in any substantial gainful activity owing to a physical or mental impairment that is expected to result in death or which has lasted or is expected to last for a continuous period of at least twelve months. 42 U.S.C. § 423(d)(1)(A); Drouin v. Sullivan, 966 F.2d 1255, 1257 (9th Cir. 1992).

A. THE FIVE-STEP EVALUATION PROCESS

The Commissioner (or ALJ) follows a five-step sequential evaluation process in assessing whether a claimant is disabled. 20 C.F.R. §§ 404.1520, 416.920; Lester v. Chater, 81 F.3d 821, 828 n.5 (9th Cir. 1995), as amended April 9, 1996. In the first step, the Commissioner must

determine whether the claimant is currently engaged in substantial gainful activity; if so, the claimant is not disabled and the claim is denied. Id. If the claimant is not currently engaged in substantial gainful activity, the second step requires the Commissioner to determine whether the claimant has a "severe" impairment or combination of impairments significantly limiting her ability to do basic work activities; if not, a finding of nondisability is made and the claim is denied. Id. If the claimant has a "severe" impairment or combination of impairments, the third step requires the Commissioner to determine whether the impairment or combination of impairments meets or equals an impairment in the Listing of Impairments ("Listing") set forth at 20 C.F.R. part 404, subpart P, appendix 1; if so, disability is conclusively presumed and benefits are awarded. Id. If the claimant's impairment or combination of impairments does not meet or equal an impairment in the Listing, the fourth step requires the Commissioner to determine whether the claimant has sufficient "residual functional capacity" to perform her past work; if so, the claimant is not disabled and the claim is denied. Id. The claimant has the burden of proving that she is unable to perform past relevant work. Drouin, 966 F.2d at 1257. If the claimant meets this burden, a prima facie case of disability is established. Id. The Commissioner then bears the burden of establishing that the claimant is not disabled, because she can perform other substantial gainful work available in the national economy. Id. The determination of this issue comprises the fifth and final step in the sequential analysis. 20 C.F.R. §§ 404.1520, 416.920; Lester, 81 F.3d at 828 n.5; Drouin, 966 F.2d at 1257.

B. THE ALJ'S APPLICATION OF THE FIVE-STEP PROCESS

At step one, the ALJ found that plaintiff had not engaged in substantial gainful activity since June 7, 2013, the alleged onset date.[2] [AR at 17.] At step two, the ALJ concluded that plaintiff has the severe impairments of hypertension; history of ventral hernia repair, status post repair; history of intra-abdominal adhesions, status post adhesional lysis; and history of diverticulitis and

[2] The ALJ concluded that plaintiff met the insured status requirements of the Social Security Act through September 30, 2013. [AR at 17.]

diverting colostomy. [AR at 17-18.] At step three, the ALJ determined that plaintiff does not have an impairment or a combination of impairments that meets or medically equals any of the impairments in the Listing. [AR at 19.] The ALJ further found that plaintiff retained the residual functional capacity ("RFC")[3] to perform light work as defined in 20 C.F.R. §§ 404.1567(b), 416.967(b),[4] as follows:

> [Plaintiff] is able to lift and carry 20 pounds occasionally, 10 pounds frequently; sit for 6 hours out of an 8 hour workday; and stand or walk for 6 hours out of an 8 hour day, all with normal breaks. [Plaintiff] can frequently climb stairs, ramps, ladders, ropes, and scaffolds. She can frequently balance, stoop, kneel, crouch and crawl.

[AR at 20.] At step four, based on plaintiff's RFC and the testimony of the VE, the ALJ concluded that plaintiff is able to perform her past relevant work as a bench assembler. [AR at 23, 47.] Accordingly, the ALJ determined that plaintiff was not disabled at any time from the alleged onset date of June 7, 2013, through February 18, 2015, the date of the decision. [AR at 23-24.]

V.

THE ALJ'S DECISION

Plaintiff contends that the ALJ erred when she rejected the opinion of treating physician and cardiologist, James Tran, M.D. [JS at 4.] As set forth below, the Court agrees with plaintiff and remands for further proceedings.

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[3] RFC is what a claimant can still do despite existing exertional and nonexertional limitations. See Cooper v. Sullivan, 880 F.2d 1152, 1155 n.5 (9th Cir. 1989). "Between steps three and four of the five-step evaluation, the ALJ must proceed to an intermediate step in which the ALJ assesses the claimant's residual functional capacity." Massachi v. Astrue, 486 F.3d 1149, 1151 n.2 (9th Cir. 2007) (citation omitted).

[4] "Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. To be considered capable of performing a full or wide range of light work, you must have the ability to do substantially all of these activities. If someone can do light work, we determine that he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time." 20 C.F.R. §§ 404.1567(b), 416.967(b).

A. MEDICAL OPINIONS

1. Legal Standard

"There are three types of medical opinions in social security cases: those from treating physicians, examining physicians, and non-examining physicians." Valentine v. Comm'r Soc. Sec. Admin., 574 F.3d 685, 692 (9th Cir. 2009); see also 20 C.F.R. §§ 404.1502, 404.1527. "As a general rule, more weight should be given to the opinion of a treating source than to the opinion of doctors who do not treat the claimant." Lester, 81 F.3d at 830; Garrison v. Colvin, 759 F.3d 995, 1012 (9th Cir. 2014) (citing Ryan, 528 F.3d at 1198); Turner v. Comm'r of Soc. Sec., 613 F.3d 1217, 1222 (9th Cir. 2010). "The opinion of an examining physician is, in turn, entitled to greater weight than the opinion of a nonexamining physician." Lester, 81 F.3d at 830; Ryan, 528 F.3d at 1198.

"[T]he ALJ may only reject a treating or examining physician's uncontradicted medical opinion based on clear and convincing reasons." Carmickle, 533 F.3d at 1164 (citation and internal quotation marks omitted); Widmark v. Barnhart, 454 F.3d 1063, 1066 (9th Cir. 2006). "Where such an opinion is contradicted, however, it may be rejected for specific and legitimate reasons that are supported by substantial evidence in the record." Carmickle, 533 F.3d at 1164 (citation and internal quotation marks omitted); Ryan, 528 F.3d at 1198; Ghanim v. Colvin, 763 F.3d 1154, 1160-61 (9th Cir. 2014); Garrison, 759 F.3d at 1012. The ALJ can meet the requisite specific and legitimate standard "by setting out a detailed and thorough summary of the facts and conflicting clinical evidence, stating his interpretation thereof, and making findings." Reddick, 157 F.3d at 725. The ALJ "must set forth his own interpretations and explain why they, rather than the [treating or examining] doctors', are correct." Id.

Although the opinion of a non-examining physician "cannot by itself constitute substantial evidence that justifies the rejection of the opinion of either an examining physician or a treating physician," Lester, 81 F.3d at 831, state agency physicians are "highly qualified physicians, psychologists, and other medical specialists who are also experts in Social Security disability evaluation." 20 C.F.R. §§ 404.1527(e)(2)(i), 416.927(e)(2)(i); Soc. Sec. Ruling 96-6p; Bray v. Astrue, 554 F.3d 1219, 1221, 1227 (9th Cir. 2009) (the ALJ properly relied "in large part on the

DDS physician's assessment" in determining the claimant's RFC and in rejecting the treating doctor's testimony regarding the claimant's functional limitations). Reports of non-examining medical experts "may serve as substantial evidence when they are supported by other evidence in the record and are consistent with it." Andrews v. Shalala, 53 F.3d 1035, 1041 (9th Cir. 1995).

2. Dr. Tran

Dr. Tran, plaintiff's treating cardiologist, prepared a "Cardiac Residual Functional Capacity Questionnaire" ("Questionnaire") on December 11, 2014. [AR at 339-43.] In the Questionnaire, Dr. Tran indicated he had been treating plaintiff since August 2014. [AR at 339.] He diagnosed plaintiff with a New York Heart Association ("NYHA") functional classification of II-III. [Id.] According to plaintiff, NYHA classifications are "functional classifications for the severity of heart failure": Class II denotes a slight limitation of physical activity from symptoms such as fatigue, palpitation, or shortness of breath, while Class III denotes a marked limitation. (JS at 4 n.2). In support of his diagnosis, Dr. Tran noted that plaintiff's treadmill test had to be stopped after 30 seconds due to her "fatigue, arthritis, [and] debilitating weakness"; and that her seven prior surgeries have made her "weak and emotionally fragile." [AR at 339.] He further noted the following: "stress [illegible[5]] is a major factor" in bringing on plaintiff's symptoms, and she is incapable of even low-stress jobs; plaintiff's physical symptoms and limitations cause emotional difficulties such as depression or chronic anxiety; she experiences "probable emotional stress with coping with colostomy"[6]; and her cardiac symptoms would constantly interfere with her attention and concentration even if she was performing simple work. [AR at 340.] Dr. Tran opined that plaintiff can walk less than 1 block without needing to rest or experiencing severe pain; can sit or stand/walk less than two hours; needs to shift positions at will from sitting, standing or walking; will

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[5] The parties appear to agree that the word in parentheses is "emotional." [See JS at 5, 9.]

[6] The Court notes that although Dr. Tran indicated plaintiff had "[p]robable emotional stress with coping with colostomy" [AR at 340], it appears that although she "had a colostomy bag for a while . . . they finally removed that, so she doesn't have that anymore." [AR at 34; see also AR at 255 (September 11, 2013, treatment record noting a prior history of "diverticulitis with diverting colostomy and then closure").] It is unclear when the colostomy was closed.

frequently need unscheduled one-hour breaks during an eight-hour workday; can rarely lift less than ten pounds and can never lift above ten pounds; can never twist, stoop, crouch/squat, or climb ladders or stairs; is likely to have good and bad days; would be absent more than four days per month; arthritis limits the use of her harms, hands, and fingers; and "[e]motional stress limits any work." [AR at 340-43.]

The ALJ gave "very little weight" to the opinions of Dr. Tran:

> Dr. Tran did not even see [plaintiff] until August 2014 more than a year after the alleged onset date. In addition, although he states that she had a positive treadmill test, these statements are not supported by accompanying treatment notes or any diagnostic testing reports which show negative results. In fact, Dr. Tran's notes have a question mark by congestive heart failure, which would indicate he was unsure if she had this condition. He also reported that the echocardiogram was negative in October 2014. I further note [plaintiff] never alleged a heart condition. The treatment notes also include a two-dimensional echocardiogram which showed normal left ventricular function with . . . no regional wall motion abnormalities. Thus, I find his statements extreme and unsupported by the evidence of record and his treatment notes.

[AR at 22 (citations omitted).] The ALJ gave "considerable weight to the [November 2013 and January 2014] opinions of the state agency medical consultants that [plaintiff] does not have a severe impairment or that any impairment that was severe did not last for the required 12 month period." [AR at 21.]

Plaintiff contends that the ALJ failed to adequately consider Dr. Tran's opinion regarding plaintiff's mental health and the effect that stress has on plaintiff's physical symptoms in a work-related setting and on her ability to work. [JS at 5-6.] She notes that the ALJ's rejection of Dr. Tran's opinion focused "solely on the cardiac component" of her condition, and that the ALJ made no reference to plaintiff's inability to tolerate even a "low stress" job because of the role stress plays in "bringing on" her symptoms. [JS at 6; AR at 340.]

Defendant responds that Dr. Tran began treating plaintiff in August 2014 and his opinion, therefore, does not reflect that plaintiff has a mental condition that has lasted for (or will last) a consecutive twelve months, or that commenced prior to her date last insured.[7] [JS at 10.]

[7] Dr. Tran did opine that plaintiff's "impairments lasted or can be expected to last at least twelve months." [AR at 341.]

Defendant also contends that plaintiff has not met her burden of proving that she has a severe mental impairment; and that the ALJ properly found that Dr. Tran's statements were extreme and unsupported by the evidence of record and his treatment notes. [Id. at 10 (citing AR at 22).]

Although somewhat unclear, the Court determines that plaintiff is not only arguing that she has a mental health impairment that the ALJ failed to specifically consider, but that she is also generally arguing that "the ALJ erred by articulating legally insufficient reasons for rejecting Dr. Tran's opinion." [JS at 24.] Moreover, Dr. Tran's opinions regarding plaintiff's inability to handle stress in the workplace, and the effect of stress (emotional or otherwise) on her symptoms of fatigue and shortness of breath, generally were incorporated into Dr. Tran's findings regarding plaintiff's functional limitations. Thus, even though the ALJ did not specifically accept or reject Dr. Tran's opinions regarding the effect of stress on plaintiff's ability to work, the Court will consider whether the ALJ properly gave Dr. Tran's overall opinion "little weight."

a. Onset of Treatment with Dr. Tran and Failure to Allege a Heart Condition

The ALJ rejected Dr. Tran's opinion because he did not first treat plaintiff until August 2014, "more than a year after the alleged onset date" of June 7, 2013. [AR at 22.] The record reflects, however, that plaintiff complained of shortness of breath to her treating physician, Chung The Bui, M.D., in April 2014 [AR at 318], i.e., *less than* one year after the alleged onset date, and in May, June, July, and August 2014, she complained to him of palpitations. [AR at 314-17.] Dr. Bui, who treated plaintiff from April 16, 2014, to December 8, 2014, referred plaintiff to cardiologist Dr. Tran in approximately June 2014. [See AR at 315-17, 335.]

The ALJ also rejected Dr. Tran's opinion because plaintiff "never alleged a heart condition." [AR at 22.] The ALJ completely misstates the record. Notwithstanding the fact that plaintiff did not first visit Dr. Tran until August 2014, on October 22, 2013, when she completed her Pain Questionnaire, plaintiff reported that she had been experiencing "aching and crushing" "chest pain and back pain" since January 2013 -- well before September 30, 2013, her date last insured for

purposes of DIB benefits. [AR at 202.] In her "Function Report - Adult," also completed on October 22, 2013, plaintiff reported that she "frequently" experienced pain and fatigue[8] that prevented her from "doing anything." [AR at 205.] Additionally, the "Disability Report - Adult" completed by the Administration clearly reflects that plaintiff alleged heart problems and/or chest pain in her application for benefits. For instance, in the section detailing medical conditions, plaintiff indicated that heart problems and chest pain limit her ability to work [AR at 194], and in the section detailing the medical conditions that Dr. Hai Pham treated her for between August 2010 and October 2013, plaintiff indicated "heart problems." Indeed, in the records produced by Dr. Pham, there is a June 10, 2013, ECG test strip, reflecting that plaintiff's ECG results were "*BORDERLINE ABNORMAL* EXERCISE CAUTION" and noting that an "old infarction is suspected." [AR at 246.] Moreover, the state agency consultants in November 2013 and January 2014, to whom the ALJ gave "considerable weight," both acknowledged that plaintiff was alleging "heart problems and chest pain," but both noted that "*with the available information* we could not determine a disabling impairment." [AR at 56, 70.] Both of these record reviews were conducted without the benefit of Dr. Bui's and/or Dr. Tran's 2014 treatment records. Therefore, the ALJ's decision to give considerable weight to their opinions that plaintiff "does not have a severe impairment or that any impairment that was severe did not last for the required 12 month period," was error because their opinions were based on an incomplete record.

Based on the foregoing, these were not specific and legitimate reasons to discount Dr. Tran's opinions in favor of the reviewing consultant's opinions.

b. Treadmill Test and Congestive Heart Failure

The ALJ stated that plaintiff's positive treadmill test on October 9, 2014, was not supported by accompanying treatment notes or any diagnostic testing reports that showed negative results. [AR at 22.] He also stated that because Dr. Tran had "put a question mark by congestive heart

[8] It appears that Dr. Bui was concerned enough about plaintiff's complaints of fatigue and shortness of breath that he referred her to a cardiologist. [AR at 335.]

failure" in his treatment notes [see AR at 331], this was an indication that Dr. Tran "was unsure if [plaintiff] had this condition." [AR at 22.] Neither of these reasons is specific and legitimate.

First, during the "exercise test," plaintiff "ran slowly" for 30 seconds, at which point the test was stopped due to "[f]atigue . . . ARTHRITIS AT HEEL R>L." [AR at 335.] It seems that any "negative results" reflected on Dr. Tran's "Exercise Stress Test Report," therefore, arose in large part from the need to stop the test after 30 seconds due to plaintiff's fatigue and pain in her heels when she ran slowly for that time period on the treadmill. [Id.] Dr. Tran himself deemed this an "[e]quivocal stress test." [Id.] Thus, the results on the treadmill test are not necessarily reflective of the *lack* of a heart problem and, indeed, the symptoms that caused the test to be stopped after 30 seconds -- fatigue and debilitating weakness -- were identified by Dr. Tran as themselves being a clinical indication of such a problem. [AR at 339.]

Second, although Dr. Tran put a question mark next to CHF (congestive heart failure) on his September 8, 2014, treatment note, the ALJ failed to mention the rest of Dr. Tran's note which states in its entirety: "(1) CHF? Sob/dyspnea [shortness of breath/dyspnea] = need eval for CHF." [AR at 331.] While true, therefore, that this was an indication that Dr. Tran "was unsure" if plaintiff had congestive heart failure, Dr. Tran certainly had not ruled this out as a diagnosis (neither had he opined that it was the only possible diagnosis), and indeed, he indicated that further evaluation for this specific condition was necessary. Moreover, even if CHF had not been specifically diagnosed as the *cause* of plaintiff's shortness of breath, fatigue, and/or chest pain, Dr. Tran still found that plaintiff's symptoms indicated heart failure that he classified as NYHA Class II to III, that stress (emotional or otherwise) was a "major factor" in bringing on plaintiff's symptoms, and that even low work stress could not be tolerated. [AR at 340.]

Based on the foregoing, these were not specific and legitimate reasons for discounting Dr. Tran's opinions.

B. CONCLUSION

Because the ALJ did not provide specific and legitimate reasons for discounting Dr. Tran's

opinions regarding plaintiff's heart problems generally, and the state agency consultants did not have the benefit of the later medical evidence from Dr. Bui and Dr. Tran, the Court cannot conclude that the ALJ's decision to give more weight to the opinions of the state agency consultants was supported by substantial evidence. Andrews, 53 F.3d at 1041 (reports of non-examining medical experts "may serve as substantial evidence when they are supported by other evidence in the record and are consistent with it").

Remand is warranted on this issue.

VI.

REMAND FOR FURTHER PROCEEDINGS

The Court has discretion to remand or reverse and award benefits. McAllister v. Sullivan, 888 F.2d 599, 603 (9th Cir. 1989). Where no useful purpose would be served by further proceedings, or where the record has been fully developed, it is appropriate to exercise this discretion to direct an immediate award of benefits. See Lingenfelter v. Astrue, 504 F.3d 1028, 1041 (9th Cir. 2007); Benecke v. Barnhart, 379 F.3d 587, 595-96 (9th Cir. 2004). Where there are outstanding issues that must be resolved before a determination can be made, and it is not clear from the record that the ALJ would be required to find plaintiff disabled if all the evidence were properly evaluated, remand is appropriate. See Benecke, 379 F.3d at 593-96.

In this case, there are outstanding issues that must be resolved before a final determination can be made. In an effort to expedite these proceedings and to avoid any confusion or misunderstanding as to what the Court intends, the Court will set forth the scope of the remand proceedings. First, because the ALJ failed to provide specific and legitimate reasons for discounting the opinions of Dr. Tran, the ALJ on remand shall reassess the medical evidence of record, including all of Dr. Tran's opinions. In assessing the medical opinion evidence, the ALJ must explain the weight afforded to each opinion and provide legally adequate reasons for any portion of the opinion that the ALJ discounts or rejects, including a legally sufficient explanation for crediting one doctor's opinion over any of the others. Finally**,** if warranted, the ALJ shall

reassess plaintiff's RFC and determine at step four, with the assistance of a VE if necessary, whether plaintiff is capable of performing her past relevant work as a bench assembler.[9] If plaintiff is not so capable, or if the ALJ determines to make an alternative finding at step five, then the ALJ shall proceed to step five and determine, with the assistance of a VE if necessary, whether there are jobs existing in significant numbers in the regional and national economy that plaintiff can still perform.

VII.

CONCLUSION

IT IS HEREBY ORDERED that: (1) plaintiff's request for remand is **granted**; (2) the decision of the Commissioner is **reversed**; and (3) this action is **remanded** to defendant for further proceedings consistent with this Memorandum Opinion.

IT IS FURTHER ORDERED that the Clerk of the Court serve copies of this Order and the Judgment herein on all parties or their counsel.

This Memorandum Opinion and Order is not intended for publication, nor is it intended to be included in or submitted to any online service such as Westlaw or Lexis.

DATED: July 20, 2017

PAUL L. ABRAMS
UNITED STATES MAGISTRATE JUDGE

[9] Nothing herein is intended to disrupt the ALJ's step four finding that plaintiff is unable to perform her past relevant work as a store laborer.