

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Jun 26, 2018**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

AMANDA LEONA D.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

No. 2:17-CV-00060-RHW

**ORDER GRANTING  
DEFENDANT’S MOTION FOR  
SUMMARY JUDGMENT**

Before the Court are the parties’ cross-motions for summary judgment, ECF Nos. 12 & 13. Plaintiff brings this action seeking judicial review, pursuant to 42 U.S.C. § 405(g), of the Commissioner’s final decision, which denied her application for Disability Insurance Benefits under Title II and her application for Supplemental Security Income under Title XVI of the Social Security Act, 42 U.S.C §§ 401-434, 1381-1383F. After reviewing the administrative record and briefs filed by the parties, the Court is now fully informed. For the reasons set forth

1 below, the Court **GRANTS** Defendant’s Motion for Summary Judgment and  
2 **DENIES** Plaintiff’s Motion for Summary Judgment.

### 3 **I. Jurisdiction**

4 Plaintiff filed her application for Disability Insurance Benefits and her  
5 application for Supplemental Security Income on October 18, 2012. AR 196-208.  
6 Her amended alleged onset date of disability is September 1, 2007. AR 20, 56-57.  
7 Plaintiff’s applications were initially denied on December 17, 2012, AR 136-42,  
8 and on reconsideration on April 24, 2013, AR 146-58.

9 A hearing with Administrative Law Judge (“ALJ”) Caroline Siderius  
10 occurred on May 28, 2015. AR 52-91. On June 15, 2015, the ALJ issued a decision  
11 finding Plaintiff ineligible for disability benefits. AR 20-36. The Appeals Council  
12 denied Plaintiff’s request for review on December 14, 2016, AR 1-4, making the  
13 ALJ’s ruling the “final decision” of the Commissioner.

14 Plaintiff timely filed the present action challenging the denial of benefits, on  
15 February 10, 2017. ECF No. 3. Accordingly, Plaintiff’s claims are properly before  
16 this Court pursuant to 42 U.S.C. § 405(g).

### 17 **II. Sequential Evaluation Process**

18 The Social Security Act defines disability as the “inability to engage in any  
19 substantial gainful activity by reason of any medically determinable physical or  
20 mental impairment which can be expected to result in death or which has lasted or

1 can be expected to last for a continuous period of not less than twelve months.” 42  
2 U.S.C. §§ 423(d)(1)(A), 1382c(a)(3)(A). A claimant shall be determined to be  
3 under a disability only if the claimant’s impairments are of such severity that the  
4 claimant is not only unable to do his previous work, but cannot, considering  
5 claimant's age, education, and work experience, engage in any other substantial  
6 gainful work that exists in the national economy. 42 U.S.C. § 1382c(a)(3)(B).

7 The Commissioner has established a five-step sequential evaluation process  
8 for determining whether a claimant is disabled within the meaning of the Social  
9 Security Act. 20 C.F.R. §§ 404.1520(a)(4) & 416.920(a)(4); *Lounsbury v.*  
10 *Barnhart*, 468 F.3d 1111, 1114 (9th Cir. 2006).

11 Step one inquires whether the claimant is presently engaged in “substantial  
12 gainful activity.” 20 C.F.R. §§ 404.1520(b) & 416.920(b). Substantial gainful  
13 activity is defined as significant physical or mental activities done or usually done  
14 for profit. 20 C.F.R. §§ 404.1572 & 416.972. If the claimant is engaged in  
15 substantial activity, he or she is not entitled to disability benefits. 20 C.F.R. §§  
16 404.1571 & 416.920(b). If not, the ALJ proceeds to step two.

17 Step two asks whether the claimant has a severe impairment, or combination  
18 of impairments, that significantly limits the claimant’s physical or mental ability to  
19 do basic work activities. 20 C.F.R. §§ 404.1520(c) & 416.920(c). A severe  
20 impairment is one that has lasted or is expected to last for at least twelve months,

1 and must be proven by objective medical evidence. 20 C.F.R. §§ 404.1508-09 &  
2 416.908-09. If the claimant does not have a severe impairment, or combination of  
3 impairments, the disability claim is denied, and no further evaluative steps are  
4 required. Otherwise, the evaluation proceeds to the third step.

5 Step three involves a determination of whether any of the claimant's severe  
6 impairments "meets or equals" one of the listed impairments acknowledged by the  
7 Commissioner to be sufficiently severe as to preclude substantial gainful activity.  
8 20 C.F.R. §§ 404.1520(d), 404.1525, 404.1526 & 416.920(d), 416.925, 416.926;  
9 20 C.F.R. § 404 Subpt. P. App. 1 ("the Listings"). If the impairment meets or  
10 equals one of the listed impairments, the claimant is *per se* disabled and qualifies  
11 for benefits. *Id.* If the claimant is not *per se* disabled, the evaluation proceeds to the  
12 fourth step.

13 Step four examines whether the claimant's residual functional capacity  
14 enables the claimant to perform past relevant work. 20 C.F.R. §§ 404.1520(e)-(f) &  
15 416.920(e)-(f). If the claimant can still perform past relevant work, the claimant is  
16 not entitled to disability benefits and the inquiry ends. *Id.*

17 Step five shifts the burden to the Commissioner to prove that the claimant is  
18 able to perform other work in the national economy, taking into account the  
19 claimant's age, education, and work experience. *See* 20 C.F.R. §§ 404.1512(f),  
20 404.1520(g), 404.1560(c) & 416.912(f), 416.920(g), 416.960(c). To meet this

1 burden, the Commissioner must establish that (1) the claimant is capable of  
2 performing other work; and (2) such work exists in “significant numbers in the  
3 national economy.” 20 C.F.R. §§ 404.1560(c)(2); 416.960(c)(2); *Beltran v. Astrue*,  
4 676 F.3d 1203, 1206 (9th Cir. 2012).

### 5 **III. Standard of Review**

6 A district court's review of a final decision of the Commissioner is governed  
7 by 42 U.S.C. § 405(g). The scope of review under § 405(g) is limited, and the  
8 Commissioner's decision will be disturbed “only if it is not supported by  
9 substantial evidence or is based on legal error.” *Hill v. Astrue*, 698 F.3d 1144,  
10 1158-59 (9th Cir. 2012) (citing § 405(g)). Substantial evidence means “more than a  
11 mere scintilla but less than a preponderance; it is such relevant evidence as a  
12 reasonable mind might accept as adequate to support a conclusion.” *Sandgathe v.*  
13 *Chater*, 108 F.3d 978, 980 (9th Cir.1997) (quoting *Andrews v. Shalala*, 53 F.3d  
14 1035, 1039 (9th Cir. 1995)) (internal quotation marks omitted). In determining  
15 whether the Commissioner’s findings are supported by substantial evidence, “a  
16 reviewing court must consider the entire record as a whole and may not affirm  
17 simply by isolating a specific quantum of supporting evidence.” *Robbins v. Soc.*  
18 *Sec. Admin.*, 466 F.3d 880, 882 (9th Cir. 2006) (quoting *Hammock v. Bowen*, 879  
19 F.2d 498, 501 (9th Cir. 1989)).

1 In reviewing a denial of benefits, a district court may not substitute its  
2 judgment for that of the ALJ. *Matney v. Sullivan*, 981 F.2d 1016, 1019 (9th Cir.  
3 1992). If the evidence in the record “is susceptible to more than one rational  
4 interpretation, [the court] must uphold the ALJ's findings if they are supported by  
5 inferences reasonably drawn from the record.” *Molina v. Astrue*, 674 F.3d 1104,  
6 1111 (9th Cir. 2012); *see also Thomas v. Barnhart*, 278 F.3d 947, 954 (9<sup>th</sup> Cir.  
7 2002) (if the “evidence is susceptible to more than one rational interpretation, one  
8 of which supports the ALJ’s decision, the conclusion must be upheld”). Moreover,  
9 a district court “may not reverse an ALJ's decision on account of an error that is  
10 harmless.” *Molina*, 674 F.3d at 1111. An error is harmless “where it is  
11 inconsequential to the [ALJ's] ultimate nondisability determination.” *Id.* at 1115.  
12 The burden of showing that an error is harmful generally falls upon the party  
13 appealing the ALJ's decision. *Shinseki v. Sanders*, 556 U.S. 396, 409–10 (2009).

#### 14 **IV. Statement of Facts**

15 The facts of the case are set forth in detail in the transcript of proceedings  
16 and only briefly summarized here. Plaintiff was 22 years old at the amended  
17 alleged date of onset. AR 34, 196, 202. She has a high school education and some  
18 college. AR 34, 63, 77-78. Plaintiff is able to communicate in English. AR 34. Ms.  
19 Plaintiff has a history of cannabis abuse. AR 26, 28, 57, 602. Plaintiff has past  
20 work as a sales clerk. AR 34, 63-64.

1 **V. The ALJ's Findings**

2 The ALJ determined that Plaintiff was not under a disability within the  
3 meaning of the Act from September 1, 2007, through the date of the ALJ's  
4 decision. AR 21, 36.

5 **At step one**, the ALJ found that Plaintiff had not engaged in substantial  
6 gainful activity since September 1, 2007 (citing 20 C.F.R. §§ 404.1571 *et seq.*, and  
7 416.971 *et seq.*). AR 22.

8 **At step two**, the ALJ found Plaintiff had the following severe impairments:  
9 borderline personality disorder, anxiety, depression, shoulder degenerative joint  
10 disease, obesity, and asthma (citing 20 C.F.R. §§ 404.1520(c) and 416.920(c)). AR  
11 23.

12 **At step three**, the ALJ found that Plaintiff did not have an impairment or  
13 combination of impairments that meets or medically equals the severity of one of  
14 the listed impairments in 20 C.F.R. § 404, Subpt. P, App. 1. AR 23.

15 **At step four**, the ALJ found Plaintiff had the residual functional capacity to  
16 perform light work, meaning: she can lift twenty pounds occasionally and ten  
17 pounds frequently; she can sit for up to eight hours in an eight-hour workday; she  
18 can stand/walk for six hours in an eight-hour workday; she needs to change  
19 position once an hour; she can never climb ladders, ropes, or scaffolds; she can  
20 occasionally climb stairs and ramps; she can occasionally kneel and crawl; she

1 must avoid unprotected heights; she cannot work around heavy machinery or  
2 equipment; she can perform simple repetitive tasks; she can occasionally perform  
3 detailed work; she can have superficial brief contact with the general public and  
4 occasional brief contact with co-workers; she can have no more than ordinary  
5 production requirements; she must avoid concentrated exposure to odor, dust,  
6 gases, and fumes; she should work with things rather than people. AR 25.

7 The ALJ found that Plaintiff is unable to perform her past relevant work. AR  
8 34.

9 **At step five**, the ALJ found, in light of her age, education, work experience,  
10 and residual functional capacity, there are jobs that exist in significant numbers in  
11 the national economy that Plaintiff can perform. AR 35. These include small parts  
12 assembler and mail clerk. *Id.*

## 13 **VI. Issues for Review**

14 Plaintiff argues that the Commissioner's decision is not free of legal error  
15 and not supported by substantial evidence. Specifically, she argues the ALJ erred  
16 by: (1) improperly discrediting Plaintiff's subjective complaint testimony; and (2)  
17 improperly evaluating the medical opinion evidence.

18 \\  
19 \\  
20 \\  
21 \\  
22 \\  
23 \\  
24 \\  
25 \\  
26 \\  
27 \\  
28 \\  
29 \\  
30 \\  
31 \\  
32 \\  
33 \\  
34 \\  
35 \\  
36 \\  
37 \\  
38 \\  
39 \\  
40 \\  
41 \\  
42 \\  
43 \\  
44 \\  
45 \\  
46 \\  
47 \\  
48 \\  
49 \\  
50 \\  
51 \\  
52 \\  
53 \\  
54 \\  
55 \\  
56 \\  
57 \\  
58 \\  
59 \\  
60 \\  
61 \\  
62 \\  
63 \\  
64 \\  
65 \\  
66 \\  
67 \\  
68 \\  
69 \\  
70 \\  
71 \\  
72 \\  
73 \\  
74 \\  
75 \\  
76 \\  
77 \\  
78 \\  
79 \\  
80 \\  
81 \\  
82 \\  
83 \\  
84 \\  
85 \\  
86 \\  
87 \\  
88 \\  
89 \\  
90 \\  
91 \\  
92 \\  
93 \\  
94 \\  
95 \\  
96 \\  
97 \\  
98 \\  
99 \\  
100 \\  
101 \\  
102 \\  
103 \\  
104 \\  
105 \\  
106 \\  
107 \\  
108 \\  
109 \\  
110 \\  
111 \\  
112 \\  
113 \\  
114 \\  
115 \\  
116 \\  
117 \\  
118 \\  
119 \\  
120 \\  
121 \\  
122 \\  
123 \\  
124 \\  
125 \\  
126 \\  
127 \\  
128 \\  
129 \\  
130 \\  
131 \\  
132 \\  
133 \\  
134 \\  
135 \\  
136 \\  
137 \\  
138 \\  
139 \\  
140 \\  
141 \\  
142 \\  
143 \\  
144 \\  
145 \\  
146 \\  
147 \\  
148 \\  
149 \\  
150 \\  
151 \\  
152 \\  
153 \\  
154 \\  
155 \\  
156 \\  
157 \\  
158 \\  
159 \\  
160 \\  
161 \\  
162 \\  
163 \\  
164 \\  
165 \\  
166 \\  
167 \\  
168 \\  
169 \\  
170 \\  
171 \\  
172 \\  
173 \\  
174 \\  
175 \\  
176 \\  
177 \\  
178 \\  
179 \\  
180 \\  
181 \\  
182 \\  
183 \\  
184 \\  
185 \\  
186 \\  
187 \\  
188 \\  
189 \\  
190 \\  
191 \\  
192 \\  
193 \\  
194 \\  
195 \\  
196 \\  
197 \\  
198 \\  
199 \\  
200 \\  
201 \\  
202 \\  
203 \\  
204 \\  
205 \\  
206 \\  
207 \\  
208 \\  
209 \\  
210 \\  
211 \\  
212 \\  
213 \\  
214 \\  
215 \\  
216 \\  
217 \\  
218 \\  
219 \\  
220 \\  
221 \\  
222 \\  
223 \\  
224 \\  
225 \\  
226 \\  
227 \\  
228 \\  
229 \\  
230 \\  
231 \\  
232 \\  
233 \\  
234 \\  
235 \\  
236 \\  
237 \\  
238 \\  
239 \\  
240 \\  
241 \\  
242 \\  
243 \\  
244 \\  
245 \\  
246 \\  
247 \\  
248 \\  
249 \\  
250 \\  
251 \\  
252 \\  
253 \\  
254 \\  
255 \\  
256 \\  
257 \\  
258 \\  
259 \\  
260 \\  
261 \\  
262 \\  
263 \\  
264 \\  
265 \\  
266 \\  
267 \\  
268 \\  
269 \\  
270 \\  
271 \\  
272 \\  
273 \\  
274 \\  
275 \\  
276 \\  
277 \\  
278 \\  
279 \\  
280 \\  
281 \\  
282 \\  
283 \\  
284 \\  
285 \\  
286 \\  
287 \\  
288 \\  
289 \\  
290 \\  
291 \\  
292 \\  
293 \\  
294 \\  
295 \\  
296 \\  
297 \\  
298 \\  
299 \\  
300 \\  
301 \\  
302 \\  
303 \\  
304 \\  
305 \\  
306 \\  
307 \\  
308 \\  
309 \\  
310 \\  
311 \\  
312 \\  
313 \\  
314 \\  
315 \\  
316 \\  
317 \\  
318 \\  
319 \\  
320 \\  
321 \\  
322 \\  
323 \\  
324 \\  
325 \\  
326 \\  
327 \\  
328 \\  
329 \\  
330 \\  
331 \\  
332 \\  
333 \\  
334 \\  
335 \\  
336 \\  
337 \\  
338 \\  
339 \\  
340 \\  
341 \\  
342 \\  
343 \\  
344 \\  
345 \\  
346 \\  
347 \\  
348 \\  
349 \\  
350 \\  
351 \\  
352 \\  
353 \\  
354 \\  
355 \\  
356 \\  
357 \\  
358 \\  
359 \\  
360 \\  
361 \\  
362 \\  
363 \\  
364 \\  
365 \\  
366 \\  
367 \\  
368 \\  
369 \\  
370 \\  
371 \\  
372 \\  
373 \\  
374 \\  
375 \\  
376 \\  
377 \\  
378 \\  
379 \\  
380 \\  
381 \\  
382 \\  
383 \\  
384 \\  
385 \\  
386 \\  
387 \\  
388 \\  
389 \\  
390 \\  
391 \\  
392 \\  
393 \\  
394 \\  
395 \\  
396 \\  
397 \\  
398 \\  
399 \\  
400 \\  
401 \\  
402 \\  
403 \\  
404 \\  
405 \\  
406 \\  
407 \\  
408 \\  
409 \\  
410 \\  
411 \\  
412 \\  
413 \\  
414 \\  
415 \\  
416 \\  
417 \\  
418 \\  
419 \\  
420 \\  
421 \\  
422 \\  
423 \\  
424 \\  
425 \\  
426 \\  
427 \\  
428 \\  
429 \\  
430 \\  
431 \\  
432 \\  
433 \\  
434 \\  
435 \\  
436 \\  
437 \\  
438 \\  
439 \\  
440 \\  
441 \\  
442 \\  
443 \\  
444 \\  
445 \\  
446 \\  
447 \\  
448 \\  
449 \\  
450 \\  
451 \\  
452 \\  
453 \\  
454 \\  
455 \\  
456 \\  
457 \\  
458 \\  
459 \\  
460 \\  
461 \\  
462 \\  
463 \\  
464 \\  
465 \\  
466 \\  
467 \\  
468 \\  
469 \\  
470 \\  
471 \\  
472 \\  
473 \\  
474 \\  
475 \\  
476 \\  
477 \\  
478 \\  
479 \\  
480 \\  
481 \\  
482 \\  
483 \\  
484 \\  
485 \\  
486 \\  
487 \\  
488 \\  
489 \\  
490 \\  
491 \\  
492 \\  
493 \\  
494 \\  
495 \\  
496 \\  
497 \\  
498 \\  
499 \\  
500 \\  
501 \\  
502 \\  
503 \\  
504 \\  
505 \\  
506 \\  
507 \\  
508 \\  
509 \\  
510 \\  
511 \\  
512 \\  
513 \\  
514 \\  
515 \\  
516 \\  
517 \\  
518 \\  
519 \\  
520 \\  
521 \\  
522 \\  
523 \\  
524 \\  
525 \\  
526 \\  
527 \\  
528 \\  
529 \\  
530 \\  
531 \\  
532 \\  
533 \\  
534 \\  
535 \\  
536 \\  
537 \\  
538 \\  
539 \\  
540 \\  
541 \\  
542 \\  
543 \\  
544 \\  
545 \\  
546 \\  
547 \\  
548 \\  
549 \\  
550 \\  
551 \\  
552 \\  
553 \\  
554 \\  
555 \\  
556 \\  
557 \\  
558 \\  
559 \\  
560 \\  
561 \\  
562 \\  
563 \\  
564 \\  
565 \\  
566 \\  
567 \\  
568 \\  
569 \\  
570 \\  
571 \\  
572 \\  
573 \\  
574 \\  
575 \\  
576 \\  
577 \\  
578 \\  
579 \\  
580 \\  
581 \\  
582 \\  
583 \\  
584 \\  
585 \\  
586 \\  
587 \\  
588 \\  
589 \\  
590 \\  
591 \\  
592 \\  
593 \\  
594 \\  
595 \\  
596 \\  
597 \\  
598 \\  
599 \\  
600 \\  
601 \\  
602 \\  
603 \\  
604 \\  
605 \\  
606 \\  
607 \\  
608 \\  
609 \\  
610 \\  
611 \\  
612 \\  
613 \\  
614 \\  
615 \\  
616 \\  
617 \\  
618 \\  
619 \\  
620 \\  
621 \\  
622 \\  
623 \\  
624 \\  
625 \\  
626 \\  
627 \\  
628 \\  
629 \\  
630 \\  
631 \\  
632 \\  
633 \\  
634 \\  
635 \\  
636 \\  
637 \\  
638 \\  
639 \\  
640 \\  
641 \\  
642 \\  
643 \\  
644 \\  
645 \\  
646 \\  
647 \\  
648 \\  
649 \\  
650 \\  
651 \\  
652 \\  
653 \\  
654 \\  
655 \\  
656 \\  
657 \\  
658 \\  
659 \\  
660 \\  
661 \\  
662 \\  
663 \\  
664 \\  
665 \\  
666 \\  
667 \\  
668 \\  
669 \\  
670 \\  
671 \\  
672 \\  
673 \\  
674 \\  
675 \\  
676 \\  
677 \\  
678 \\  
679 \\  
680 \\  
681 \\  
682 \\  
683 \\  
684 \\  
685 \\  
686 \\  
687 \\  
688 \\  
689 \\  
690 \\  
691 \\  
692 \\  
693 \\  
694 \\  
695 \\  
696 \\  
697 \\  
698 \\  
699 \\  
700 \\  
701 \\  
702 \\  
703 \\  
704 \\  
705 \\  
706 \\  
707 \\  
708 \\  
709 \\  
710 \\  
711 \\  
712 \\  
713 \\  
714 \\  
715 \\  
716 \\  
717 \\  
718 \\  
719 \\  
720 \\  
721 \\  
722 \\  
723 \\  
724 \\  
725 \\  
726 \\  
727 \\  
728 \\  
729 \\  
730 \\  
731 \\  
732 \\  
733 \\  
734 \\  
735 \\  
736 \\  
737 \\  
738 \\  
739 \\  
740 \\  
741 \\  
742 \\  
743 \\  
744 \\  
745 \\  
746 \\  
747 \\  
748 \\  
749 \\  
750 \\  
751 \\  
752 \\  
753 \\  
754 \\  
755 \\  
756 \\  
757 \\  
758 \\  
759 \\  
760 \\  
761 \\  
762 \\  
763 \\  
764 \\  
765 \\  
766 \\  
767 \\  
768 \\  
769 \\  
770 \\  
771 \\  
772 \\  
773 \\  
774 \\  
775 \\  
776 \\  
777 \\  
778 \\  
779 \\  
780 \\  
781 \\  
782 \\  
783 \\  
784 \\  
785 \\  
786 \\  
787 \\  
788 \\  
789 \\  
790 \\  
791 \\  
792 \\  
793 \\  
794 \\  
795 \\  
796 \\  
797 \\  
798 \\  
799 \\  
800 \\  
801 \\  
802 \\  
803 \\  
804 \\  
805 \\  
806 \\  
807 \\  
808 \\  
809 \\  
810 \\  
811 \\  
812 \\  
813 \\  
814 \\  
815 \\  
816 \\  
817 \\  
818 \\  
819 \\  
820 \\  
821 \\  
822 \\  
823 \\  
824 \\  
825 \\  
826 \\  
827 \\  
828 \\  
829 \\  
830 \\  
831 \\  
832 \\  
833 \\  
834 \\  
835 \\  
836 \\  
837 \\  
838 \\  
839 \\  
840 \\  
841 \\  
842 \\  
843 \\  
844 \\  
845 \\  
846 \\  
847 \\  
848 \\  
849 \\  
850 \\  
851 \\  
852 \\  
853 \\  
854 \\  
855 \\  
856 \\  
857 \\  
858 \\  
859 \\  
860 \\  
861 \\  
862 \\  
863 \\  
864 \\  
865 \\  
866 \\  
867 \\  
868 \\  
869 \\  
870 \\  
871 \\  
872 \\  
873 \\  
874 \\  
875 \\  
876 \\  
877 \\  
878 \\  
879 \\  
880 \\  
881 \\  
882 \\  
883 \\  
884 \\  
885 \\  
886 \\  
887 \\  
888 \\  
889 \\  
890 \\  
891 \\  
892 \\  
893 \\  
894 \\  
895 \\  
896 \\  
897 \\  
898 \\  
899 \\  
900 \\  
901 \\  
902 \\  
903 \\  
904 \\  
905 \\  
906 \\  
907 \\  
908 \\  
909 \\  
910 \\  
911 \\  
912 \\  
913 \\  
914 \\  
915 \\  
916 \\  
917 \\  
918 \\  
919 \\  
920 \\  
921 \\  
922 \\  
923 \\  
924 \\  
925 \\  
926 \\  
927 \\  
928 \\  
929 \\  
930 \\  
931 \\  
932 \\  
933 \\  
934 \\  
935 \\  
936 \\  
937 \\  
938 \\  
939 \\  
940 \\  
941 \\  
942 \\  
943 \\  
944 \\  
945 \\  
946 \\  
947 \\  
948 \\  
949 \\  
950 \\  
951 \\  
952 \\  
953 \\  
954 \\  
955 \\  
956 \\  
957 \\  
958 \\  
959 \\  
960 \\  
961 \\  
962 \\  
963 \\  
964 \\  
965 \\  
966 \\  
967 \\  
968 \\  
969 \\  
970 \\  
971 \\  
972 \\  
973 \\  
974 \\  
975 \\  
976 \\  
977 \\  
978 \\  
979 \\  
980 \\  
981 \\  
982 \\  
983 \\  
984 \\  
985 \\  
986 \\  
987 \\  
988 \\  
989 \\  
990 \\  
991 \\  
992 \\  
993 \\  
994 \\  
995 \\  
996 \\  
997 \\  
998 \\  
999 \\  
1000 \\  
1001 \\  
1002 \\  
1003 \\  
1004 \\  
1005 \\  
1006 \\  
1007 \\  
1008 \\  
1009 \\  
1010 \\  
1011 \\  
1012 \\  
1013 \\  
1014 \\  
1015 \\  
1016 \\  
1017 \\  
1018 \\  
1019 \\  
1020 \\  
1021 \\  
1022 \\  
1023 \\  
1024 \\  
1025 \\  
1026 \\  
1027 \\  
1028 \\  
1029 \\  
1030 \\  
1031 \\  
1032 \\  
1033 \\  
1034 \\  
1035 \\  
1036 \\  
1037 \\  
1038 \\  
1039 \\  
1040 \\  
1041 \\  
1042 \\  
1043 \\  
1044 \\  
1045 \\  
1046 \\  
1047 \\  
1048 \\  
1049 \\  
1050 \\  
1051 \\  
1052 \\  
1053 \\  
1054 \\  
1055 \\  
1056 \\  
1057 \\  
1058 \\  
1059 \\  
1060 \\  
1061 \\  
1062 \\  
1063 \\  
1064 \\  
1065 \\  
1066 \\  
1067 \\  
1068 \\  
1069 \\  
1070 \\  
1071 \\  
1072 \\  
1073 \\  
1074 \\  
1075 \\  
1076 \\  
1077 \\  
1078 \\  
1079 \\  
1080 \\  
1081 \\  
1082 \\  
1083 \\  
1084 \\  
1085 \\  
1086 \\  
1087 \\  
1088 \\  
1089 \\  
1090 \\  
1091 \\  
1092 \\  
1093 \\  
1094 \\  
1095 \\  
1096 \\  
1097 \\  
1098 \\  
1099 \\  
1100 \\  
1101 \\  
1102 \\  
1103 \\  
1104 \\  
1105 \\  
1106 \\  
1107 \\  
1108 \\  
1109 \\  
1110 \\  
1111 \\  
1112 \\  
1113 \\  
1114 \\  
1115 \\  
1116 \\  
1117 \\  
1118 \\  
1119 \\  
1120 \\  
1121 \\  
1122 \\  
1123 \\  
1124 \\  
1125 \\  
1126 \\  
1127 \\  
1128 \\  
1129 \\  
1130 \\  
1131 \\  
1132 \\  
1133 \\  
1134 \\  
1135 \\  
1136 \\  
1137 \\  
1138 \\  
1139 \\  
1140 \\  
1141 \\  
1142 \\  
1143 \\  
1144 \\  
1145 \\  
1146 \\  
1147 \\  
1148 \\  
1149 \\  
1150 \\  
1151 \\  
1152 \\  
1153 \\  
1154 \\  
1155 \\  
1156 \\  
1157 \\  
1158 \\  
1159 \\  
1160 \\  
1161 \\  
1162 \\  
1163 \\  
1164 \\  
1165 \\  
1166 \\  
1167 \\  
1168 \\  
1169 \\  
1170 \\  
1171 \\  
1172 \\  
1173 \\  
1174 \\  
1175 \\  
1176 \\  
1177 \\  
1178 \\  
1179 \\  
1180 \\  
1181 \\  
1182 \\  
1183 \\  
1184 \\  
1185 \\  
1186 \\  
1187 \\  
1188 \\  
1189 \\  
1190 \\  
1191 \\  
1192 \\  
1193 \\  
1194 \\  
1195 \\  
1196 \\  
1197 \\  
1198 \\  
1199 \\  
1200 \\  
1201 \\  
1202 \\  
1203 \\  
1204 \\  
1205 \\  
1206 \\  
1207 \\  
1208 \\  
1209 \\  
1210 \\  
1211 \\  
1212 \\  
1213 \\  
1214 \\  
1215 \\  
1216 \\  
1217 \\  
1218 \\  
1219 \\  
1220 \\  
1221 \\  
1222 \\  
1223 \\  
1224 \\  
1225 \\  
1226 \\  
1227 \\  
1228 \\  
1229 \\  
1230 \\  
1231 \\  
1232 \\  
1233 \\  
1234 \\  
1235 \\  
1236 \\  
1237 \\  
1238 \\  
1239 \\  
1240 \\  
1241 \\  
1242 \\  
1243 \\  
1244 \\  
1245 \\  
1246 \\  
1247 \\  
1248 \\  
1249 \\  
1250 \\  
1251 \\  
1252 \\  
1253 \\  
1254 \\  
1255 \\  
1256 \\  
1257 \\  
1258 \\  
1259 \\  
1260 \\  
1261 \\  
1262 \\  
1263 \\  
1264 \\  
1265 \\  
1266 \\  
1267 \\  
1268 \\  
1269 \\  
1270 \\  
1271 \\  
1272 \\  
1273 \\  
1274 \\  
1275 \\  
1276 \\  
1277 \\  
1278 \\  
1279 \\  
1280 \\  
1281 \\  
1282 \\  
1283 \\  
1284 \\  
1285 \\  
1286 \\  
1287 \\  
1288 \\  
1289 \\  
1290 \\  
1291 \\  
1292 \\  
1293 \\  
1294 \\  
1295 \\  
1296 \\  
1297 \\  
1298 \\  
1299 \\  
1300 \\  
1301 \\  
1302 \\  
1303 \\  
1304 \\  
1305 \\  
1306 \\  
1307 \\  
1308 \\  
1309 \\  
1310 \\  
1311 \\  
1312 \\  
1313 \\  
1314 \\  
1315 \\  
1316 \\  
1317 \\  
1318 \\  
1319 \\  
1320 \\  
1321 \\  
1322 \\  
1323 \\  
1324 \\  
1325 \\  
1326 \\  
1327 \\  
1328 \\  
1329 \\  
1330 \\  
1331 \\  
1332 \\  
1333 \\  
1334 \\  
1335 \\  
1336 \\  
1337 \\  
1338 \\  
1339 \\  
1340 \\  
1341 \\  
1342 \\  
1343 \\  
1344 \\  
1345 \\  
1346 \\  
1347 \\  
1348 \\  
1349 \\  
1350 \\  
1351 \\  
1352 \\  
1353 \\  
1354 \\  
1355 \\  
1356 \\  
1357 \\  
1358 \\  
1359 \\  
1360 \\  
1361 \\  
1362 \\  
1363 \\  
1364 \\  
1365 \\  
1366 \\  
1367 \\  
1368 \\  
1369 \\  
1370 \\  
1371 \\  
1372 \\  
1373 \\  
1374 \\  
1375 \\  
1376 \\  
1377 \\  
1378 \\  
1379 \\  
1380 \\  
1381 \\  
1382 \\  
1383 \\  
1384 \\  
1385 \\  
1386 \\  
1387 \\  
1388 \\  
1389 \\  
1390 \\  
1391 \\  
1392 \\  
1393 \\  
1394 \\  
1395 \\  
1396 \\  
1397 \\  
1398 \\  
1399 \\  
1400 \\  
1401 \\  
1402 \\  
1403 \\  
1404 \\  
1405 \\  
1406 \\  
1407 \\  
1408 \\  
1409 \\  
1410 \\  
1411 \\  
1412 \\  
1413 \\  
1414 \\  
1415 \\  
1416 \\  
1417 \\  
1418 \\  
1419 \\  
1420 \\  
1421 \\  
1422 \\  
1423 \\  
1424 \\  
1425 \\  
1426 \\  
1427 \\  
1428 \\  
1429 \\  
1430 \\  
1431 \\  
1432 \\  
1433 \\  
1434 \\  
1435 \\  
1436 \\  
1437 \\  
1438 \\  
1439 \\  
1440 \\  
1441 \\  
1442 \\  
1443 \\  
1444 \\  
1445 \\  
1446 \\  
1447 \\  
1448 \\  
1449 \\  
1450 \\  
1451 \\  
1452 \\  
1453 \\  
1454 \\  
1455 \\  
1456 \\  
1457 \\  
1458 \\  
1459 \\  
1460 \\  
1461 \\  
1462 \\  
1463 \\  
1464 \\  
1465 \\  
1466 \\  
1467 \\  
1468 \\  
1469 \\  
1470 \\  
1471 \\  
1472 \\  
1473 \\  
1474 \\  
1475 \\  
1476 \\  
1477 \\  
1478 \\  
1479 \\  
1480 \\  
1481 \\  
1482 \\  
1483 \\  
1484 \\  
1485 \\  
1486 \\  
1487 \\  
1488 \\  
1489 \\  
1490 \\  
1491 \\  
1492 \\  
1493 \\  
1494 \\  
1495 \\  
1496 \\  
1497 \\  
1498 \\  
1499 \\  
1500 \\  
1501 \\  
1502 \\  
1503 \\  
1504 \\  
1505 \\  
1506 \\  
1507 \\  
1508 \\  
1509 \\  
1510 \\  
1511 \\  
1512 \\  
1513 \\  
1514 \\  
1515 \\  
1516 \\  
1517 \\  
1518 \\  
1519 \\  
1520 \\  
1521 \\  
1522 \\  
1523 \\  
1524 \\  
1525 \\  
1526 \\  
1527 \\  
1528 \\  
1529 \\  
1530 \\  
1531 \\  
1532 \\  
1533 \\  
1534 \\  
1535 \\  
1536 \\  
1537 \\  
1538 \\  
1539 \\  
1540 \\  
1541 \\  
1542 \\  
1543 \\  
1544 \\  
1545 \\  
1546 \\  
1547 \\  
1548 \\  
1549 \\  
1550 \\  
1551 \\  
1552 \\  
1553 \\  
1554 \\  
1555 \\  
1556 \\  
1557 \\  
1558 \\  
1559 \\  
1560 \\  
1561 \\  
1562 \\  
1563 \\  
1564 \\  
1565 \\  
1566 \\  
1567 \\  
1568 \\  
1569 \\  
1570 \\  
1571 \\  
1572 \\  
1573 \\  
1574 \\  
1575 \\  
1576 \\  
1577 \\  
1578 \\  
1579 \\  
1580 \\  
1581 \\  
1582 \\  
1583 \\  
1584 \\  
1585 \\  
1586 \\  
1587 \\  
1588 \\  
1589 \\  
1590 \\  
1591 \\  
1592 \\  
1593 \\  
1594 \\  
1595 \\  
1596 \\  
1597 \\  
1598 \\  
1599 \\  
1600 \\  
1601 \\  
1602 \\  
1603 \\  
1604 \\  
1605 \\  
1606 \\  
1607 \\  
1608 \\  
1609 \\  
1610 \\  
1611 \\  
1612 \\  
1613 \\  
1614 \\  
1615 \\  
1616 \\  
1617 \\  
1618 \\  
1619 \\  
1620 \\  
1621 \\  
1622 \\  
1623 \\  
1624 \\  
1625 \\  
1626 \\  
1627 \\  
1628 \\  
1629 \\  
1630 \\  
1631 \\  
1632 \\  
1633 \\  
1634 \\  
1635 \\  
1636 \\  
1637 \\  
1638



1 **VII. Discussion**

2 **A. The ALJ Properly Discounted Plaintiff’s Credibility.**

3 An ALJ engages in a two-step analysis to determine whether a claimant’s  
4 testimony regarding subjective symptoms is credible. *Tommasetti v. Astrue*, 533  
5 F.3d 1035, 1039 (9th Cir. 2008). First, the claimant must produce objective  
6 medical evidence of an underlying impairment or impairments that could  
7 reasonably be expected to produce some degree of the symptoms alleged. *Id.*  
8 Second, if the claimant meets this threshold, and there is no affirmative evidence  
9 suggesting malingering, “the ALJ can reject the claimant’s testimony about the  
10 severity of [her] symptoms only by offering specific, clear, and convincing reasons  
11 for doing so.” *Id.*

12 In weighing a claimant's credibility, the ALJ may consider many factors,  
13 including, “(1) ordinary techniques of credibility evaluation, such as the claimant's  
14 reputation for lying, prior inconsistent statements concerning the symptoms, and  
15 other testimony by the claimant that appears less than candid; (2) unexplained or  
16 inadequately explained failure to seek treatment or to follow a prescribed course of  
17 treatment; and (3) the claimant's daily activities.” *Smolen*, 80 F.3d at 1284. When  
18 evidence reasonably supports either confirming or reversing the ALJ's decision, the  
19 Court may not substitute its judgment for that of the ALJ. *Tackett v. Apfel*, 180  
20 F.3d 1094, 1098 (9th Cir.1999). Here, the ALJ found that the medically

1 determinable impairments could reasonably be expected to produce the symptoms  
2 Plaintiff alleges; however, the ALJ determined that Plaintiff's statements of  
3 intensity, persistence, and limiting effects of the symptoms were not entirely  
4 credible. AR 27. The ALJ provided multiple clear and convincing reasons for  
5 discrediting Plaintiff's subjective complaint testimony. AR 22-23, 25-31.

6 In this case, there is substantial affirmative evidence of malingering. The  
7 ALJ stated that Plaintiff appears to be highly motivated to seek benefits rather than  
8 work, and Plaintiff's malingering, exaggerations, and disability focus undermine  
9 her credibility. *See Benton ex. el. Benton v. Barnhart*, 331 F.3d 1030, 1040 (9th  
10 Cir.2003) (finding of affirmative evidence of malingering will support a rejection  
11 of a claimant's testimony). AR 30-31. The ALJ provided numerous notations to the  
12 record demonstrating Plaintiff's malingering. The ALJ noted that Plaintiff's  
13 treating physician, Dr. Wurst, stated "in my opinion, [Plaintiff] embellishes or  
14 exaggerates her symptoms." AR 27, 439. The ALJ cited medical records stating  
15 that Plaintiff had multiple invalid REY tests and malingering was suspected. AR  
16 28, 411. The ALJ documented multiple instances of exaggeration, embellishment,  
17 invalid test results due to malingering, doctors' notes regarding Plaintiff's  
18 motivation to overstate her problems for secondary gain, and diagnoses of  
19 malingering. AR 30-33, 465, 467, 469-72, 475, 477, 479, 511.

1 In addition to malingering, the ALJ provided multiple other clear and  
2 convincing reasons to discount Plaintiff's credibility. AR 26-31. Including: failing  
3 to follow prescribed treatment; repeated and frequent inconsistent statements and  
4 inconsistency in the record; and activities of daily living and work that are  
5 inconsistent with her alleged level of impairment. *Id.* All of which independently  
6 constitute legally sufficient reasons supported by the record for the ALJ's  
7 credibility determination, in addition to the affirmative evidence of malingering.

8 When the ALJ presents a reasonable interpretation that is supported by the  
9 evidence, it is not the role of the courts to second-guess it. *Rollins*, 261 F.3d at 857.  
10 The Court "must uphold the ALJ's findings if they are supported by inferences  
11 reasonably drawn from the record." *Molina*, 674 F.3d 1104, 1111; *see also*  
12 *Thomas*, 278 F.3d 947, 954 (if the "evidence is susceptible to more than one  
13 rational interpretation, one of which supports the ALJ's decision, the conclusion  
14 must be upheld"). The Court does not find the ALJ erred when discounting  
15 Plaintiff's credibility because the ALJ properly provided multiple clear and  
16 convincing reasons for doing so.

17 **B. The ALJ Properly Weighed the Medical Opinion Evidence.**

18 **a. Legal Standard.**

19 The Ninth Circuit has distinguished between three classes of medical  
20 providers in defining the weight to be given to their opinions: (1) treating

1 providers, those who actually treat the claimant; (2) examining providers, those  
2 who examine but do not treat the claimant; and (3) non-examining providers, those  
3 who neither treat nor examine the claimant. *Lester v. Chater*, 81 F.3d 821, 830 (9th  
4 Cir. 1996) (as amended).

5 A treating provider's opinion is given the most weight, followed by an  
6 examining provider, and finally a non-examining provider. *Id.* at 830-31. In the  
7 absence of a contrary opinion, a treating or examining provider's opinion may not  
8 be rejected unless "clear and convincing" reasons are provided. *Id.* at 830. If a  
9 treating or examining provider's opinion is contradicted, it may only be discounted  
10 for "specific and legitimate reasons that are supported by substantial evidence in  
11 the record." *Id.* at 830-31.

12 The ALJ may meet the specific and legitimate standard by "setting out a  
13 detailed and thorough summary of the facts and conflicting clinical evidence,  
14 stating his interpretation thereof, and making findings." *Magallanes v. Bowen*, 881  
15 F.2d 747, 751 (9th Cir. 1989) (internal citation omitted). When rejecting a treating  
16 provider's opinion on a psychological impairment, the ALJ must offer more than  
17 his or her own conclusions and explain why he or she, as opposed to the provider,  
18 is correct. *Embrey v. Bowen*, 849 F.2d 418, 421-22 (9th Cir. 1988).

19 Additionally, "other sources" for opinions include nurse practitioners,  
20 physicians' assistants, therapists, teachers, social workers, spouses, and other non-

1 medical sources. 20 C.F.R. §§ 404.1513(d), 416.913(d). An ALJ is required to  
2 “consider observations by non-medical sources as to how an impairment affects a  
3 claimant's ability to work.” *Sprague v. Bowen*, 812 F.2d 1226, 1232 (9th Cir.1987).  
4 Non-medical testimony can never establish a diagnosis or disability absent  
5 corroborating competent medical evidence. *Nguyen v. Chater*, 100 F.3d 1462, 1467  
6 (9th Cir.1996). An ALJ is obligated to give reasons germane to “other source”  
7 testimony before discounting it. *Dodrill v. Shalala*, 12 F.3d 915 (9th Cir.1993).

8 **b. Dr. Dalley**

9 Dr. Dalley adopted the report and opinion created by Abigail Osborne  
10 Elmer, a licensed medical health counselor, based on an examination conducted by  
11 Ms. Osborne Elmer on August 29, 2007. AR 454-64. The report and opinion  
12 provided normal and average results on all tests except one that was not interpreted  
13 due to malingering, provided moderate limitations and some marked limitations in  
14 interactions with others. *Id.*

15 The ALJ assigned the opinion some weight. AR 32. In discounting a portion  
16 of the opinion, the ALJ provided multiple valid reasons. The ALJ noted that there  
17 are multiple inconsistencies between the objective testing and the ultimate opinion  
18 provided, such as the fact that Plaintiff had perfect scores or scored within normal  
19 limits on every valid test that was performed and the opinion repeatedly notes that  
20 Plaintiff functions normally or within the average range, which is inconsistent with

1 the more severe limitations opinioned. *Id.* A discrepancy between a doctor’s  
2 recorded observations and opinions is a clear and convincing reason for not relying  
3 on the doctor’s opinion. *Bayliss v. Barnhart*, 427 F.3d 1211, 1216 (9th Cir. 2005).  
4 Additionally, “an ALJ need not accept the opinion of a doctor if that opinion is...  
5 inadequately supported by clinical findings.” *Id.* at 1216. The opinion also fails to  
6 account for the only test that did not fall within normal limits, was deemed  
7 uninterpretable due to malingering. Furthermore, the limitations opined are not  
8 supported by the objective evidence and only find support in Plaintiff’s self-  
9 reports, which the ALJ determined are not credible. An ALJ may discount even a  
10 treating provider’s opinion if it is based largely on the claimant’s self-reports and  
11 not on clinical evidence, and the ALJ finds the claimant not credible. *Ghanim v.*  
12 *Colvin*, 763 F.3d 1154, 1162 (9th Cir. 2014).

13       When the ALJ presents a reasonable interpretation that is supported by the  
14 evidence, it is not the role of the courts to second-guess it. *Rollins*, 261 F.3d 853,  
15 857. The Court “must uphold the ALJ’s findings if they are supported by inferences  
16 reasonably drawn from the record.” *Molina*, 674 F.3d 1104, 1111; *see also*  
17 *Thomas*, 278 F.3d 947, 954 (if the “evidence is susceptible to more than one  
18 rational interpretation, one of which supports the ALJ’s decision, the conclusion  
19 must be upheld”). Thus, the Court finds the ALJ did not err in her consideration of  
20 Dr. Dalley’s opinion.

1  
2 **c. Dr. Arnold**

3 Dr. Arnold is an examining psychologist who provided three medical  
4 opinions regarding Plaintiff's limitations. AR 470, 478, 604. Dr. Arnold opined  
5 that Plaintiff had severe and marked limitations in multiple categories.

6 The ALJ assigned great weight to Dr. Arnold's opinions addressing  
7 Plaintiff's malingering and poor motivation, as it is supported by the objective  
8 evidence; however, the ALJ assigned little weight to the opinions of severe and  
9 marked limitation. AR 33-34. The ALJ provided multiple valid reasons to discount  
10 a portion of the opinions. The ALJ noted that the objective medical findings in Dr.  
11 Arnold's examinations are inconsistent with the level of impairment in the opinion.  
12 *Id.* Nearly all of the objective examination scores fell comfortably within the  
13 normal range and Dr. Arnold's objective observations do not support marked or  
14 severe limitations. AR 470-71, 478, 605-06. A discrepancy between a doctor's  
15 recorded observations and opinions is a clear and convincing reason for not relying  
16 on the doctor's opinion. *Bayliss*, 427 F.3d at 1216. Dr. Arnold frequently found  
17 that Plaintiff was malingering and over-reporting her symptoms, complicating the  
18 accuracy of his opinions. AR 470-71, 478, 605-06. An ALJ may discount even a  
19 treating provider's opinion if it is based largely on the claimant's self-reports and  
20 not on clinical evidence, and the ALJ finds the claimant not credible. *Ghanim*, 763

1 F.3d at 1162. Additionally, the marked and severe limitations are inconsistent with  
2 the medical evidence of record, including the reports from Plaintiff's treating  
3 neurologist, Dr. Wurst, and they are inconsistent with Plaintiff's activities of daily  
4 living including working as a driver and equipment worker for a band. *See* AR 26-  
5 31. An ALJ may reject a doctor's opinion when it is inconsistent with other  
6 evidence in the record. *See Morgan v. Comm'r of the Soc. Sec. Admin.*, 169 F.3d  
7 595, 600 (9th Cir. 1999). And, an ALJ may properly reject an opinion that provides  
8 restrictions that appear inconsistent with the claimant's level of activity. *Rollins v.*  
9 *Massanari*, 261 F.3d 853, 856 (9th Cir. 2001).

10 When the ALJ presents a reasonable interpretation that is supported by the  
11 evidence, it is not the role of the courts to second-guess it. *Rollins*, 261 F.3d 853,  
12 857. The Court "must uphold the ALJ's findings if they are supported by inferences  
13 reasonably drawn from the record." *Molina*, 674 F.3d 1104, 1111; *see also*  
14 *Thomas*, 278 F.3d 947, 954 (if the "evidence is susceptible to more than one  
15 rational interpretation, one of which supports the ALJ's decision, the conclusion  
16 must be upheld"). Thus, the Court finds the ALJ did not err in her consideration of  
17 Dr. Arnold's opinions.

18 **d. Dr. Mabee**

19 Dr. Mabee examined Plaintiff in September 2011 and September 2012. AR  
20 488-95, 510-16. The earlier opinion found only one marked limitation in working



1 effectively with public contact, which has been addressed in the residual functional  
2 captivity provided by the ALJ. AR 25, 490.

3         The ALJ properly afforded little weight to the marked limitations in the later  
4 opinions due to the significant inconsistency between the objective testing and  
5 observations with completely normal findings and malingering, and the  
6 significantly more restrictive and unsupported findings opined by Dr. Mabee. AR  
7 33-34, 513-16. A discrepancy between a doctor’s recorded observations and  
8 opinions is a clear and convincing reason for not relying on the doctor’s opinion.  
9 *Bayliss*, 427 F.3d at 1216. Additionally, Dr. Mabee notes that Plaintiff’s self-  
10 reports are marred by malingering and over reporting, thus are insufficient to  
11 support the greater limitations in the later opinion provided by Dr. Mabee.  
12 *Ghanim*, 763 F.3d at 1162 (an ALJ may discount even a treating provider’s opinion  
13 if it is based largely on the claimant’s self-reports and not on clinical evidence, and  
14 the ALJ finds the claimant not credible).

15         When the ALJ presents a reasonable interpretation that is supported by the  
16 evidence, it is not the role of the courts to second-guess it. *Rollins*, 261 F.3d 853,  
17 857. The Court “must uphold the ALJ’s findings if they are supported by inferences  
18 reasonably drawn from the record.” *Molina*, 674 F.3d 1104, 1111; *see also*  
19 *Thomas*, 278 F.3d 947, 954 (if the “evidence is susceptible to more than one  
20 rational interpretation, one of which supports the ALJ’s decision, the conclusion

1 must be upheld”). Thus, the Court finds the ALJ did not err in her consideration of  
2 Dr. Mabee’s opinions.

3 **e. Other Medical Evidence**

4 Plaintiff briefly concludes that the ALJ only relied on opinions of non-  
5 examining consultants rather than on the opinions of examine sources. However,  
6 this conclusory statement fails to note that the ALJ did rely on the objectively  
7 supported portions of the opinions provided by the examining sources and  
8 implemented such limitations in to the residual functional capacity. Additionally,  
9 the ALJ’s opinion is supported by the objective medical evidence in the record,  
10 including evidence from Plaintiff’s treating physician, Dr. Wurst, and evidence  
11 from testifying medical expert Dr. Winfrey. Great weight may legitimately be  
12 given to the opinion of a non-examining expert who testifies at a hearing, such as  
13 Dr. Winfrey. *Andrews v. Shalala*, 53 F.3d 1035, 1042 (9th Cir. 1995). It is “the  
14 ALJ [who] is the final arbiter with respect to resolving ambiguities in the medical  
15 evidence.” *Tommasetti v. Astrue*, 533 F.3d 1035, 1041 (9th Cir. 2008).

16 As stated previously, when the ALJ presents a reasonable interpretation that  
17 is supported by the evidence, it is not the role of the courts to second-guess it.  
18 *Rollins*, 261 F.3d 853, 857. The Court “must uphold the ALJ’s findings if they are  
19 supported by inferences reasonably drawn from the record.” *Molina*, 674 F.3d  
20 1104, 1111; *see also Thomas*, 278 F.3d 947, 954 (if the “evidence is susceptible to

1 more than one rational interpretation, one of which supports the ALJ's decision,  
2 the conclusion must be upheld").

3 **VIII. Conclusion**

4 Having reviewed the record and the ALJ's findings, the Court finds the  
5 ALJ's decision is supported by substantial evidence and is free from legal error.

6 Accordingly, **IT IS ORDERED:**

7 1. Plaintiff's Motion for Summary Judgment, **ECF No. 12**, is **DENIED**.

8 2. Defendant's Motion for Summary Judgment, **ECF No. 13**, is

9 **GRANTED**.

10 3. Judgment shall be entered in favor of Defendant and the file shall be

11 **CLOSED**.

12 **IT IS SO ORDERED.** The District Court Executive is directed to enter this Order,  
13 forward copies to counsel and **close the file**.

14 **DATED** this 26th day of June, 2018.

15 *s/Robert H. Whaley*  
16 **ROBERT H. WHALEY**  
Senior United States District Judge