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5 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
6 AT SEATTLE

7 JUDITH ANN I.,

8 Plaintiff,

9 v.

10 COMMISSIONER OF SOCIAL SECURITY,

11 Defendant.

CASE NO. 2:18-cv-05252-BAT

**ORDER AFFIRMING AND  
DISMISSING WITH PREJUDICE**

12 Plaintiff seeks review of the denial of her application for disability benefits. She contends  
13 the Administrative Law Judge (ALJ) failed to properly evaluate medical opinion evidence,  
14 Plaintiff's allegations, and lay witness evidence, all of which impacted the ALJ's residual  
15 functional capacity (RFC) assessment. Plaintiff seeks remand for the award of benefits. The  
16 Court **AFFIRMS** the Commissioner's final decision and **DISMISSES** the case with prejudice.

17 **BACKGROUND**

18 On June 12, 2014, Plaintiff protectively filed a Title II application for a period of  
19 disability and disability insurance benefits, alleging disability beginning November 19, 2013. Tr.  
20 17. The claim was denied initially on August 22, 2014, and upon reconsideration on April 10,  
21 2015. On June 15, 2015, Plaintiff filed a written request for hearing (20 CFR 404.929 et seq.).  
22 Plaintiff appeared and testified at a hearing held on May 12, 2016 and again at a supplemental  
23 hearing on September 9, 2016. Also appearing and testifying were W. Benton Boone, M.D., a

1 medical expert, and Leta R. Berkshire, a vocational expert. Plaintiff's husband, Bob Inman,  
2 appeared and testified at the supplemental hearing. Although informed of the right to  
3 representation, Plaintiff chose to appear and testify without the assistance of an attorney or other  
4 representative. Tr. 17. On December 7, 2016, the ALJ decided that Plaintiff was not disabled. Tr.  
5 14-31.

6 Utilizing the five-step disability evaluation process,<sup>1</sup> the ALJ found, at step one, that  
7 Plaintiff has not engaged in substantial gainful activity since November 19, 2013, the application  
8 date (20 CFR 416.971 *et seq.*) and at step two, the ALJ denied Plaintiff's application because the  
9 ALJ found "no medical signs or laboratory findings to substantiate the existence of a medically  
10 determinable impairment." Tr. 19-24. In the alternative, the ALJ found that "even if the claimant  
11 had a medically determinable impairment, it would not be disabling at step four" and concluded  
12 that "if Plaintiff had medically determinable impairments, they would be characterized as severe  
13 in combination consisting of Chronic Pain Syndrome, Headaches, Optic Nerve Disorder, and  
14 Photophobia (20 CFR 404.1520(c))." Tr. 24.

15 At step three, the ALJ found that these impairments do not meet or equal a Listing.<sup>2</sup> Tr.  
16 680. The ALJ found that if Plaintiff had the severe impairments listed, she would have the  
17 residual functional capacity ("RFC") to perform a full range of work at all exertional levels that  
18 does not require exposures to hazards; that will allow wearing dark sunglasses; and that does not  
19 require exposure to bright light. Tr. 25. At step four, the ALJ found that Plaintiff would still be  
20 capable of performing her past relevant work as a claims clerk with the limitations noted in the  
21 RFC.

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23 <sup>1</sup> 20 C.F.R. §§ 404.1520, 416.920.

<sup>2</sup> 20 C.F.R. Part 404, Subpart P. Appendix 1.

1 The Appeals Council denied Plaintiff’s request for review of the ALJ decision on January  
2 24, 2018 (Tr. 1-6), making the ALJ’s decision the final decision.

### 3 DISCUSSION

#### 4 A. The ALJ Did Not Err in Evaluating Medical Opinion Evidence

##### 5 1. Alternative Findings of Severe Impairments

6 Plaintiff first contends the ALJ erred in finding that “none of her impairments were  
7 medically determinable, let alone severe” and although the ALJ made alternate findings that  
8 Plaintiff’s combination of impairments (Chronic Pain Syndrome, Headaches, Optic Nerve  
9 Disorder, and Photophobia) were severe, Plaintiff contends that the ALJ’s primary finding  
10 “appears to have undermined the ALJ’s analysis.” Dkt. 12, pp. 3-4. The Commissioner concedes  
11 that the ALJ’s finding that Plaintiff had no medically determinable impairment was in error but  
12 the error was harmless. Dkt. 17, p. 2. The Court agrees.

13 Errors are harmless if they are inconsequential to the ultimate non-disability  
14 determination. *Molina v. Astrue*, 674 F.3d 1104, 1121 (9th Cir. 2012). After incorrectly finding  
15 no medically determinable impairment, the ALJ went on to make alternative findings and  
16 consider the case as though Plaintiff had a combination of “Chronic Pain Syndrome, Headaches,  
17 Optic Nerve Disorder, and Photophobia.” Tr. 24. The mere “possibility of drawing two  
18 inconsistent conclusions from the evidence does not prevent an administrative agency’s finding  
19 from being supported by substantial evidence.” *Consolo v. Fed. Maritime Comm’n*, 383 U.S.  
20 607, 620 (1966). The “key question is not whether there is substantial evidence that could  
21 support a finding of disability, but whether there is substantial evidence to support the  
22 Commissioner’s actual finding that claimant is not disabled.” *Jamerson v. Chater*, 112 F.3d  
23 1064, 1067 (9th Cir. 1997). The ALJ concluded Plaintiff would have more than minimal

1 limitations from the impairments in combination. Tr. 25. And as discussed in more detail herein,  
2 the erroneous finding did not materially affect the ultimate non-disability determination.

### 3           **2. Medical Evidence**

4           Plaintiff contends the ALJ erred in concluding that none of the specialists or  
5 ophthalmologists who examined her found any objective findings, laboratory tests, or  
6 examination findings to support her allegations and argues that many physicians described  
7 clinical findings to support Plaintiff's testimony. The record does not support this contention.

8           The ALJ gave great weight to the testimony of the Benton W. Boone, M.D., the medical  
9 expert who testified at the hearing. Dr. Boone found no ophthalmologic impairment that would  
10 meet or equal a Listing, Tr. 44-46. He testified that Plaintiff does not have a decrease in central  
11 vision; her vision was 20/20 in both eyes; there are no medical or ophthalmological findings in  
12 the record which would give rise to Plaintiff's complaints and there was no apparent basis for her  
13 symptoms or degree of symptoms she claimed. He could not say if it was purposeful, but there  
14 was no evidence showing the existence of a medically determinable impairment. *Id.* The ALJ  
15 noted that Dr. Boone is an ophthalmology expert, that he had the opportunity to review  
16 Plaintiff's records, and that his opinion is consistent with the objective evidence in the record,  
17 which show no abnormalities that support the degree of limitations alleged. Tr. 23.

18           Although a treating physician's opinion is generally afforded the greatest weight in  
19 disability cases, it is not binding on an ALJ with respect to the existence of an impairment or the  
20 ultimate determination of disability. *Magallanes v. Bowen*, 881 F.2d 747, 751 (9th Cir.1989).  
21 When there is a conflict between the opinions of a treating physician and another physician, as  
22 here, the ALJ may disregard the opinion of the treating physician only if he sets forth "specific  
23 and legitimate reasons supported by substantial evidence in the record for doing so." *Lester v.*

1 *Chater*, 81 F.3d 821, 830 (9th Cir.1995); *see also Cotton v. Bowen*, 799 F.2d 1403, 1408 (9th  
2 Cir.1986). Although the contrary opinion of a non-examining medical expert does not alone  
3 constitute a specific, legitimate reason for rejecting a treating or examining physician's opinion,  
4 it may constitute substantial evidence when it is consistent with other independent evidence in  
5 the record. *Magallanes*, 881 F.2d at 752.

6 The Court finds the ALJ gave sufficient reasons, supported by substantial evidence in the  
7 record, for rejecting the opinions of Drs. May, Choi, Nguyen, and Kooiker, who opined that  
8 Plaintiff could not work (either temporarily, on a part time basis, or at all) because those opinions  
9 were not supported by objective medical findings to support the existence of Plaintiff's  
10 condition. When confronted with conflicting medical opinions, an ALJ need not accept a treating  
11 physician's opinion that is conclusory and brief and unsupported by clinical findings. *See Matney*  
12 *v. Sullivan*, 981 F.2d 1016, 1019 (9th Cir.1992).

13 **Dr. May – August 5, 2015**

14 In an August 25, 2015 report to Washington's Department of Labor and Industries,  
15 Eugene May, M.D. stated that Plaintiff "is unable to return to work because of a chronic  
16 headache syndrome causing pain and photosensitivity. Exposure to almost the least amount of  
17 light results in her experiencing pain to the level that she cannot work." Tr. 621 (Ex. 10F, p. 3).  
18 He also stated that the "restriction is temporary" and that Plaintiff "is capable of any physical  
19 activity that does not require exposure to light." *Id.* Dr. May recommended that Plaintiff pursue  
20 "comprehensive headache management" (to include medication, Botox injections and nerve  
21 blocks), psychotherapy, and ongoing routine eye care. Tr. 622.

22 The ALJ gave little weight to this opinion "as it appears to be based on the claimant's  
23 reports as his examination yielded no abnormal findings. The claimant's vision was normal and

1 there were no abnormalities that would indicating any limitations or impairments.” Tr. 24. The  
2 Court does not find that the ALJ erred in giving little weight to Dr. May’s opinion.

3 Plaintiff argues that Dr. May relied on much more than her own reports, but her citations  
4 to the record are those portions of Dr. May’s notes where he is merely repeating what Plaintiff  
5 told him of her condition. For example, Dr. May refers to Plaintiff’s reports that her pain had  
6 decreased, she was experiencing less photosensitivity, she was able to read more, and that Dr.  
7 Sullivan (her treating ophthalmologist), had suggested to her that she was exaggerating and  
8 recommended that she return to work. Dr. May also reviewed visual field testing, neurological  
9 examinations, and CT scans performed in January, February, and March of 2014 and June of  
10 2015 – all of which were normal. *Id.*, at 620. Dr. May’s neuro-ophthalmic examination of  
11 Plaintiff on August 25, 2015 was also normal. Tr. 22 (Ex. 10F). Other than listing the results of  
12 the examination, Dr. May offered no comments. Although Plaintiff’s counsel infers that missing  
13 several of the pseudoisochromatic plates during her eye examination is somehow significant, Dr.  
14 May does not comment on the results of the colored blind test or explain how this is relevant to  
15 Plaintiff’s ability to function in light of a chronic headache syndrome causing pain and  
16 photosensitivity.

17 **Dr. Jon C. Kooiker**

18 On February 18, 2014, Plaintiff was first seen by Dr. Kooiker, a neurologist, who  
19 assessed “chronic headache possible chronic migraine with associated photic sensitivity – no  
20 medications and no imaging studies required.” Tr. 426-427 (Ex. 2F, pp. 6-7). Dr. Kooiker did not  
21 examine Plaintiff or offer an opinion regarding Plaintiff’s functionality (contrary to counsel’s  
22 argument – Dr. Kooiker’s notations that Plaintiff had experienced headaches since her mid-20’s,  
23 could tolerate only 40 watt light bulbs, and could not function through much of the day – was

1 merely a recitation of Plaintiff’s reports on her functioning (see Tr. 424)). Instead, Dr. Kooiker  
2 noted that given her current subjective symptoms of chronic pain syndrome and migraine  
3 headache, Plaintiff would need a neuro-ophthalmologist to explain the pathophysiology of her  
4 presentation and document some type of objective findings to submit to the Washington  
5 Department of Labor and Industries as she “currently has a syndrome with out [sic] a more  
6 secure diagnosis and causation.” Dkt. 611 (Ex. 8F, p. 4). The ALJ did not err in summing up the  
7 results of Dr. Kooiker’s treatment of Plaintiff in his opinion. See Tr. 22.

8 **Dr. Youngbin Choi**

9 After Drs. Kooiker and May labeled Plaintiff’s condition as “ocular migraine,” Plaintiff  
10 sought a second opinion and documentation for her disability case from Dr. Choi on June 1,  
11 2016. Tr. 400. Dr. Choi saw Plaintiff on June 1, 2016 and again on August 16, 2016. Dr. Choi  
12 noted that Plaintiff was alert, with normal motor strength, gait and stance. He noted intermittent  
13 facial twitching but not facial nerve palsy. He diagnosed Plaintiff with “light related optic nerve  
14 injury, chronic refractory photophobia, etiology unclear” and “pathophysiology ...unclear”. He  
15 recommended that she continue with conservative treatment. Tr. 399-404 (Ex. 22E/9).

16 On August 16, 2016, Dr. Choi noted Plaintiff’s symptoms remained the same. In a  
17 section of his report entitled “interval history,” Dr. Choi listed Plaintiff’s daily activities as  
18 related to him by Plaintiff. Tr. 408. Dr. Choi’s assessment included “light related optic nerve  
19 injury and chronic refractory photophobia, etiology unclear” and he then opined that Plaintiff “is  
20 able to return to work only part time ...2-3 hour per day what she feels comfortable with.” Tr.  
21 410.

22 The ALJ concluded that Dr. Choi’s opinion of Plaintiff’s current level of functioning  
23 (that she is only able to return to work part time for two to three hours per day) “per his notes,

1 was based on the claimant's statements that she has not returned to normal activities such as  
2 cooking, seeing friends, and using the computer...". Tr. 24. The ALJ gave little weight to Dr.  
3 Choi's opinion because "the record does not include any causation or objective evidence of a  
4 deformity, disease, or injury that supports the finding of any limitations" and Plaintiff's  
5 "allegations and reports are not consistent with the normal findings found throughout the  
6 record." *Id.* This was not error. *See, e.g., Matney*, 981 F.2d at 1019 ("An ALJ need not accept a  
7 treating physician's opinion that is conclusory and brief and unsupported by clinical findings.")

8 **Lan Nguyen, M.D.**

9 Dr. Nguyen diagnosed Plaintiff with migraine and associated photophobia. Tr. 561. Dr.  
10 Nguyen saw Plaintiff on several occasions between January 2014 and December 2014. By  
11 December 28, 2014, Plaintiff reported that her headaches were ninety-five percent improved, but  
12 she still wore dark glasses around the house, was unable to drive, use the computer, or watch  
13 television, and was still having eye strain and photophobia. Tr. 558. The ALJ summarized Dr.  
14 Nguyen's treatment as follows:

15 Dr. Nguyen provided multiple forms [Shared Leave Medical Certificates to the  
16 State of Washington] on the claimant's behalf. In February of 2014, she stated  
17 that the claimant has severe migraines since the incident. She believed the  
18 claimant would be able to return to work on April 1, 2014 (Exhibit 5F/51). On  
19 April 24, 2014, she stated that the claimant has chronic migraines with eye  
20 injury/strain. She stated that the claimant was unable to work due to light. The  
21 claimant got new glasses in April of 2014 and had an improvement in symptoms.  
22 She anticipated that the claimant would return to work in two months (Exhibit  
23 5F/67). On June 26, 2014, Dr. Nguyen stated that the claimant has chronic  
migraines with eye strain due to exposure to bright light. She opined that the  
claimant is unable to perform seventy percent of her past work and would never  
return to her job due to that inability (Exhibit 5F/9).

22 The ALJ concluded, "[l]ittle weight is given to her opinion as it is not based on any  
23 demonstrated abnormality, nor any signs or findings. It appears these limitations are based  
solely on the claimant's reports, which are not consistent with any of the objective evidence in



1 the record. All examinations show normal vision.” Tr. 23-24.

2 Plaintiff argues that Dr. Nguyen was able to base her opinions on her clinical  
3 observations of Plaintiff’s impaired functioning at her many medical appointments and that the  
4 issue here is not whether Plaintiff has normal visual acuity but whether she has severe  
5 photophobia. However, other than noting that Plaintiff was wearing dark glasses, Dr. Nguyen  
6 made no clinical observations of “Plaintiff’s impaired functioning at her many medical  
7 appointments” and Plaintiff has not identified any in the record. Moreover, Dr. Nguyen  
8 performed no eye exams, visual acuity tests, blood tests, CT scans, or any other diagnostic test to  
9 determine whether an objective basis for Plaintiff’s complaints existed and, when such  
10 diagnostic tests were performed by others, they were all negative. Dr. Nguyen also did not  
11 prescribe any medication or treatment for the described chronic migraine condition, which in Dr.  
12 Nguyen’s opinion was severe enough to keep Plaintiff from completing seventy percent of her  
13 work.

14 Dr. Nguyen’s opinion that Plaintiff is unable to perform seventy percent of her work is  
15 unsupported by rationale, treatment notes, or objective medical findings. Therefore, the ALJ did  
16 not err in giving little weight to this opinion.

17 **Norman Staley, M.D. and Gordon Hale, M.C.**

18 Plaintiff argues that the findings of Dr. Staley and Dr. Hale contradict the ALJ’s findings  
19 that she had no severe medically determinable impairment. On August 22, 2014, Dr. Staley  
20 assessed Plaintiff for the State agency on August 22, 2014. He noted that Plaintiff’s migraines  
21 and diseases of white blood cells were severe impairments, and opined that she could perform  
22 medium work but must avoid concentrated exposure to hazards (Ex. 2A). Tr. 114. Dr. Hale  
23 assessed Plaintiff for the State agency on April 9, 2015 and affirmed Dr. Staley's opinion. He

1 also opined that the claimant should avoid bright light (Ex. 4A). The ALJ found no basis in the  
2 medical conditions for limiting Plaintiff to medium work but gave great weight to the limitations  
3 regarding hazards and bright lights are given great weight for his alternative finding and he  
4 included the limitations in Plaintiff's RFC. TR. 24. Thus, the ALJ did not err in his consideration  
5 of this medical evidence.

### 6 **Other Medical Evidence**

7 Plaintiff argues that other medical evidence supports her testimony about her functional  
8 limitations. Plaintiff cites to Dr. Laurence C. Schadt's December 9, 2013 medical note on which  
9 he wrote "migraines with extreme photophobia," but Dr. Schadt also noted he could not examine  
10 Plaintiff "due to photophobia" (Tr. 420) and on January 9, 2014, he noted a "spontaneous  
11 improvement" of her photophobia "over 7 weeks" and advised Plaintiff to return to work and  
12 seek "neurology E&N" (Tr. 419). Plaintiff also cites to Dr. Joseph Ye's medical note of March  
13 13, 2014. But Dr. Ye merely found that Plaintiff's frequent migraine-like headaches could be  
14 associated with upper respiratory symptoms such as chronic sinusitis, and after finding an  
15 increase in inner ear fluid accumulation, recommended Zyrtec to alleviate her symptoms. Tr.  
16 444. On May 16, 2016, Dr. David V. Pratt, assessed idiopathic headaches and photophobia,  
17 possibly early blepharospasm, and eye pain, but merely recommended that Plaintiff keep an  
18 appointment with a neurologist for her headaches and make an appointment with an optometrist.  
19 Tr. 405.

20 Thus, it is unclear how these medical notes support Plaintiff's claim that she is unable to  
21 work at all due to debilitating migraines and photophobia.

### 22 **B. The ALJ Did Not Err in Evaluating Plaintiff's Allegations**

23 In evaluating the effect of pain and other symptoms on Plaintiff's RFC, the ALJ must

1 determine if the Plaintiff's medically determinable impairments could reasonably be expected to  
2 produce some of the alleged symptoms. *See* 20 C.F.R. § 404.1529. If so, the ALJ must next  
3 evaluate the intensity, persistence, and limiting effects of the symptoms to determine the extent  
4 to which they limit the Plaintiff's capacity for work. *See Id.* If there is no evidence of  
5 malingering, the ALJ may reject Plaintiff's testimony about the severity of his symptoms only by  
6 making specific findings stating clear and convincing reasons supported by substantial evidence  
7 for doing so. *Smolen v. Chater*, 80 F.3d 1273, 1283-84 (9th Cir. 1996); *Rollins v. Massanari*, 261  
8 F.3d 853, 857 (9th Cir. 2001).

9 Plaintiff alleged that she has extreme light sensitivity with headaches that requires her to  
10 spend most of her time in bed; she lives with the lights off, covers over the windows, and only  
11 goes outdoors at dawn and dusk, and needs considerable assistance from her husband. Tr. 26.  
12 The ALJ reviewed Plaintiff's allegations of disabling limitations and provided several legally  
13 acceptable reasons for concluding that the evidence was not consistent with Plaintiff's  
14 allegations, *i.e.*, *Burch v. Barnhart*, 400 F.3d 676, 680 (9th Cir. 2005).

15 First, the ALJ noted that Plaintiff's allegations were inconsistent with the totality of the  
16 evidence in the record and that her testimony and that of her husband regarding the degree of her  
17 sensitivity to light was more extreme than what she previously told Drs. Kooiker and Nguyen  
18 (she told them she could tolerate sunlight with glasses (Exs. 2F and 4F/40) and is more extreme  
19 than what she reported in her Labor and Industries claim (Ex. 7E/19, 21-25)). The ALJ also noted  
20 that Plaintiff's account in her testimony of how the injury occurred did not make sense as she  
21 testified that the light source was behind her and there was no reflective material in front of her  
22 and that this testimony also differed from statements she gave elsewhere where she stated that  
23 she looked into the light source of the reflection given off the mobile (Ex. 17E/17). Tr. 26. This

1 was not error as inconsistencies in a claimant’s testimony can undermine the weight that can be  
2 given to a claimant’s symptom reports. *See, e.g., Fair v. Bowen*, 885 F.2d 597, 603 (9th Cir.  
3 2007) (An ALJ may consider inconsistencies in testimony or between testimony and conduct,  
4 daily activities, and unexplained or inadequately explained, failure to seek treatment or follow a  
5 prescribed course of treatment).

6 Next, the ALJ noted that Plaintiff’s treating ophthalmologist, Dr. Sullivan, felt that she  
7 was exaggerating her symptoms, and that this undermines the weight that can be given to her  
8 symptoms. Tr. 26. Plaintiff counters that the ALJ was just repeating what Plaintiff related to Dr.  
9 May and as the record contains no evidence from Dr. Sullivan, this is not a proper reason to  
10 discount her testimony. Dkt. 18 at 6 (citing Tr. 619). The Court notes that Plaintiff repeated this  
11 statement in her sworn answers to interrogatories submitted to the Department of Labor &  
12 Industries. *See* Tr. 354 (Ex. 17E, p. 29). However, to the extent the ALJ erred in relying on  
13 Plaintiff’s statements as to what her treating doctor told her, the error is harmless as he gave  
14 sufficient clear and convincing other reasons supported by substantial evidence for discrediting  
15 her symptom testimony.

16 The ALJ also noted activities that seemed to be inconsistent with the degree of activity  
17 Plaintiff claimed, such as exercising daily and weekly visits with a friend at Starbucks. Tr. 26.  
18 *See Ghanim v. Colvin*, 763 F.3d 1154, 1165 (9th Cir. 2014) (“Engaging in activities that are  
19 incompatible with the severity of symptoms alleged can support an adverse credibility  
20 determination.”) “Even where those activities suggest some difficulty functioning, they may be  
21 grounds for discrediting the claimant’s testimony to the extent that they contradict claims of a  
22 totally debilitating impairment.” *Molina v. Astrue*, 674 F.3d 1104, 1113 (9th Cir. 2012).

1 Finally, the ALJ noted that Plaintiff alleged “photosensitivity, pain, and difficulty even  
2 keeping her eyes open.” Tr. 26. However, the ALJ observed that “no doctor has found evidence  
3 to support these claims. Her allegations cannot be relied upon because of this inconsistency.” Tr.  
4 26. *See, Bray v. Comm’r of Soc. Sec. Admin.*, 554 F.3d 1219, 1227 (9th Cir. 2009) (An ALJ may  
5 consider the lack of supporting objective evidence when evaluating an individual’s complaints,  
6 as long as it is not the only factor considered.)

7 In sum, the ALJ did not err in his assessment of Plaintiff’s testimony as his assessment  
8 was supported by specific, clear, and convincing reasons.

9 **C. The ALJ Did Not Err In Evaluating Lay Witness Testimony**

10 Plaintiff’s husband testified that Plaintiff’s sensitivity to light is very extreme – he had to  
11 do most of the tasks; she is up very few hours in the day; he had to blacken the entire house; he  
12 mostly lives in the garage because he cannot watch television or work on the computer near her;  
13 she cannot drive and has to ride with a towel over her head; he had to move in with friends after  
14 he was injured in a motorcycle accident in May of 2015 because she could not help him up if he  
15 fell; there is very little light in their house; she cannot use a computer, drive a vehicle, be  
16 exposed to direct sunlight, or go out and see friends.

17 The ALJ considered his testimony but did not give them great weight because “his  
18 testimony regarding the degree of sensitivity to the light is more extreme than the claimant has  
19 previously told Dr. Kooiker and Dr. Nguyen”; “is also more extreme than the claimant's reports  
20 elsewhere in the record (See, Exhibit 17E/19, 21-25)”; and “[h]is reports are not consistent with  
21 the totality of the evidence in the record.” Tr. 23.

22 One germane reason is sufficient to discredit statements from a lay witness. *Valentine v.*  
23 *Comm’r Soc. Sec. Admin.*, 574 F.3d 685, 694 (9th Cir. 2009). When a lay witness’s statements

1 are similar to a claimant's complaints, the ALJ's reasons for rejecting a claimant's statements  
2 shall apply to the lay witness's statements. *Valentine*, 574 F.3d at 694. And, although lack of  
3 medical support for lay witness statements is not a reason to discredit them, *Diedrich v.*  
4 *Berryhill*, 874 F.3d 634, 640 (9th Cir. 2017), inconsistency with medical evidence is sufficient,  
5 *Bayliss v. Barnhart*, 427 F.3d 1211, 1218 (9th Cir. 2005). As the ALJ noted, the testimony of  
6 Plaintiff's husband regarding the degree of her sensitivity to light was more extreme than  
7 Plaintiff reported to her doctors and more extreme than Plaintiff reported elsewhere in the record.  
8 Tr. 23, 344-50. This reasoning is specific and germane to the lay witness' testimony and is  
9 sufficient. *Dodrill v. Shalala*, 12 F.3d 915, 918-19 (9th Cir. 1993).

### 10 **CONCLUSION**

11 For the foregoing reasons, the Commissioner's decision is **AFFIRMED** and this case is  
12 **DISMISSED** with prejudice.

13 DATED this 31st day of January, 2019.

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17 BRIAN A. TSUCHIDA  
18 Chief United States Magistrate Judge  
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