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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

SUSANA MEZA,	)	Case No. EDCV 10-1347-OP
	)	
Plaintiff,	)	
v.	)	MEMORANDUM OPINION; ORDER
	)	
MICHAEL J. ASTRUE,	)	
Commissioner of Social Security,	)	
	)	
Defendant.	)	

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The Court<sup>1</sup> now rules as follows with respect to the disputed issues listed in the Joint Stipulation (“JS”).<sup>2</sup>

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<sup>1</sup> Pursuant to 28 U.S.C. § 636(c), the parties consented to proceed before the United States Magistrate Judge in the current action. (See Dkt. Nos. 8, 9.)

<sup>2</sup> As the Court stated in its Case Management Order, the decision in this case is made on the basis of the pleadings, the Administrative Record, and the Joint Stipulation filed by the parties. In accordance with Rule 12(c) of the Federal Rules of Civil Procedure, the Court has determined which party is entitled to judgment under the standards set forth in 42 U.S.C. § 405(g).

1 I.

2 **DISPUTED ISSUES**

3 As reflected in the Joint Stipulation, the disputed issues raised by Plaintiff  
4 as the grounds for reversal and/or remand are as follows:

- 5 (1) Whether the Administrative Law Judge (“ALJ”) properly considered  
6 the opinions of the medical expert; and  
7 (2) Whether the ALJ properly considered Plaintiff’s testimony and the  
8 lay witness statement.

9 (JS at 3.)

10 II.

11 **STANDARD OF REVIEW**

12 Under 42 U.S.C. § 405(g), this Court reviews the Commissioner’s decision  
13 to determine whether the Commissioner’s findings are supported by substantial  
14 evidence and whether the proper legal standards were applied. DeLorme v.  
15 Sullivan, 924 F.2d 841, 846 (9th Cir. 1991). Substantial evidence means “more  
16 than a mere scintilla” but less than a preponderance. Richardson v. Perales, 402  
17 U.S. 389, 401, 91 S. Ct. 1420, 28 L. Ed. 2d 842 (1971); Desrosiers v. Sec’y of  
18 Health & Human Servs., 846 F.2d 573, 575-76 (9th Cir. 1988). Substantial  
19 evidence is “such relevant evidence as a reasonable mind might accept as adequate  
20 to support a conclusion.” Richardson, 402 U.S. at 401 (citation omitted). The  
21 Court must review the record as a whole and consider adverse as well as  
22 supporting evidence. Green v. Heckler, 803 F.2d 528, 529-30 (9th Cir. 1986).  
23 Where evidence is susceptible of more than one rational interpretation, the  
24 Commissioner’s decision must be upheld. Gallant v. Heckler, 753 F.2d 1450,  
25 1452 (9th Cir. 1984).

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1 **III.**

2 **DISCUSSION**

3 **A. The ALJ's Findings.**

4 The ALJ found that Plaintiff has the severe impairments of overactive  
5 bladder, depression, and anxiety. (Administrative Record ("AR") at 16.) The ALJ  
6 further found that Plaintiff had the residual functional capacity ("RFC") to  
7 perform unskilled, nonpublic, and non-detailed medium work with the following  
8 limitations: occasional postural activities; no balancing, climbing ladders, or  
9 scaffolds; and no exposure to excessive odors, dust, fumes, and gases. (Id. at 17.)

10 Relying on the testimony of the vocational expert ("VE") to determine the  
11 extent to which Plaintiff's limitations eroded the unskilled medium occupational  
12 base, the ALJ asked the VE whether, in light of Plaintiff's age, education, work  
13 experience, and RFC, she would be able to perform her past relevant work. (Id. at  
14 24-25, 48.) Based on the testimony of the VE, the ALJ determined Plaintiff could  
15 perform the requirements of Plaintiff's past relevant work as an Order Selector  
16 (Dictionary of Occupational Titles ("DOT") No. 922.687-0589), and Shipping  
17 Clerk (DOT No. 222.387-050), both as actually performed by Plaintiff and as  
18 generally performed in the regional and national economy. (Id.)

19 **B. The ALJ Properly Considered the Testimony of the Medical Expert.**

20 Plaintiff argues that the ALJ failed to properly consider the testimony of the  
21 medical expert. Plaintiff concedes that the ALJ accurately summarized the  
22 evidence at issue, except to the extent that the ALJ rejected the medical expert's  
23 recommendation that Plaintiff be limited to lifting only twenty to forty pounds and  
24 have ready access to restroom facilities. (JS at 4-9.) Plaintiff's contention lacks  
25 merit.

26 At Plaintiff's hearing before the ALJ, Samuel Landau, M.D., offered  
27 medical expert testimony. Dr. Landau testified that Plaintiff suffers from  
28 overactive bladder syndrome or interstitial cystitis, right nephrectomy that is not

1 medically severe, and psychiatric diagnoses. (AR at 30-31.) Dr. Landau testified  
2 that Plaintiff’s impairments do not meet or medically equal a listed impairment.  
3 (Id. at 31.)

4 Dr. Landau further offered his opinion as to Plaintiff’s physical limitations,  
5 as follows:

6 I would limit standing, walking, or sitting to six hours out of  
7 eight, and that’s either one of them. Stand six, walk six, or sit six with  
8 normal breaks such as very [sic] two hours. Lifting and carrying would  
9 be limited to 20 pounds frequently and 40 pounds occasionally, and she  
10 can climb stairs but she can’t climb ladders, work at heights, or balance.  
11 Her work environment should be air conditioned, and that’s all.

12 (Id. at 31.)

13 On further questioning regarding Plaintiff’s overactive bladder syndrome or  
14 interstitial cystitis, Dr. Landau concluded that “one could add that she should  
15 have ready access to restroom facilities, I suppose.” (Id. at 31-32.)

16 “[T]he ALJ is the final arbiter with respect to resolving ambiguities in the  
17 medical evidence.” Tommasetti v. Astrue, 533 F.3d 1035, 1041-42 (9th Cir.  
18 2008). In addition, the ALJ is charged with the ultimate determination of a  
19 plaintiff’s RFC. 20 C.F.R. § 404.1546(c). To this end, the opinion of a non-  
20 examining physician is not binding on the ALJ. 20 C.F.R. § 404.1527(f)(2). An  
21 opinion of a non-examining medical expert may constitute substantial evidence to  
22 support an ALJ’s determination only when it is consistent with other independent  
23 evidence in the record. Tonapetyan v. Halter, 242 F.3d 1144, 1149 (9th Cir.  
24 2001). Ultimately, the Court “must uphold the ALJ’s decision where the evidence  
25 is susceptible to more than one rational interpretation.” Burch v. Barnhart, 400  
26 F.3d 676, 680-81 (9th Cir. 2005).

27 Here, Plaintiff complained of frequent urination. However, despite  
28 extensive medical investigation into her alleged symptoms, there is absolutely no

1 objective medical evidence of an underlying medical impairment that would cause  
2 Plaintiff's symptoms, particularly to the severity she alleges. Moreover, none of  
3 the many physicians who examined Plaintiff indicated that she would need an  
4 accommodation for frequent use of the restroom, or that she would be limited in  
5 her ability to lift more than forty pounds. Notably, treatment notes from Dr. Marc  
6 Avent, D.O., at the Cucamonga Valley Medical Group, indicate that he could not  
7 rule out factitious disorder.<sup>3</sup> (AR at 481.) Even Dr. Landau appeared hesitant in  
8 recommending that Plaintiff have ready access to a restroom. (Id. at 32.) Finally,  
9 despite Plaintiff's claims that she used the restroom every three to five minutes,  
10 she was able to sit through the entire hearing before the ALJ without a restroom  
11 break. (Id. at 19, 28-50.)

12 Since no independent evidence supported the medical expert's limitation on  
13 Plaintiff's ability to lift more than forty pounds, and his conclusion that Plaintiff  
14 needed an accommodation for the use of the restroom, the expert's opinion on  
15 these points did not amount to substantial evidence on which the ALJ could have  
16 based his RFC determination. Tonapetyan, 242 F.3d at 1149. Accordingly, the  
17 ALJ reasonably excluded such limitations from Plaintiff's RFC. Thus, there was  
18 no error.

19 **C. The ALJ Properly Assessed Plaintiff's Credibility.**

20 Plaintiff faults the ALJ for failing to provide sufficient reasons for rejecting  
21 her subjective complaints of impairment. (JS at 16-19.) The Court disagrees.

22 In his opinion denying benefits, the ALJ considered Plaintiff's subjective  
23 complaints as follows:

24 The claimant reported she spent the majority of her days lying  
25 down and resting because she felt tired. She stated she had one kidney

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27 <sup>3</sup> Factitious disorders are conditions in which a person acts as if he or she  
28 has an illness by deliberately producing, feigning, or exaggerating symptoms.  
(AR at 19 n.1.)

1 removed over 20 years prior. The claimant described no problems with  
2 personal care, preparing her own meals, and light household cleaning.  
3 She reported her activities of daily living included cooking, shopping,  
4 money management, driving, visiting her daughter, and watching  
5 television. Although the claimant's activities of daily living were  
6 somewhat limited, some of the physical and mental abilities and social  
7 interactions required in order to perform these activities are the same as  
8 those necessary for obtaining and maintaining employment and are  
9 inconsistent with the presence of an incapacitating or debilitating  
10 condition. The undersigned finds the claimant's ability to participate in  
11 such activities diminishes the credibility of the claimant's allegations of  
12 functional limitations.

13 The undersigned finds the claimant's allegations concerning the  
14 intensity, persistence and limiting effects of her symptoms are less than  
15 fully credible. The allegations of having to use the restroom every five  
16 minutes on a daily basis despite being medicated are inconsistent with  
17 the objective medical evidence which indicates an attempt by the  
18 claimant to exaggerate the severity of her symptoms. The claimant  
19 specifically testified she uses the restroom every five minutes, 24 hours  
20 a day. She adamantly stated this occurred every day, even when she is  
21 sleeping. The claimant was able to sit through the 40-minute hearing  
22 without any restroom interruption.

23 . . . .

24 The claimant has provided testimony which is inconsistent with  
25 the evidence of record. She testified the prescribed antibiotics were  
26 ineffective. There is no indication in the medical record the claimant  
27 ever informed her doctors she felt the antibiotics were ineffective. In  
28 fact, in August 2007, the claimant was adamant about receiv[ing] a refill

1 on her prescriptions. The claimant testified her overactive bladder and  
2 depression were the only reasons why she could not maintain a full-time  
3 job. However, in May 2008, the claimant informed her doctor she was  
4 applying for disability due to fatigue. She attributed her fatigue to the  
5 fact she had only one kidney. She also updated her doctor she was  
6 seeing a doctor in Anaheim for her nerves and that was what kept her on  
7 disability since January 2008. In March 2008, the claimant's own  
8 treating physician noted "factitious disorder" could not be ruled out.  
9 These discrepancies diminish the persuasiveness of the claimant's  
10 subjective complaints and alleged functional limitations.

11 After careful consideration of the evidence, the undersigned finds  
12 that the claimant's medically determinable impairments could  
13 reasonably be expected to cause some of the alleged symptoms;  
14 however, the claimant's statements and the statements by her daughter  
15 concerning the intensity, persistence and limiting effects of these  
16 symptoms are not credible to the extent they are inconsistent with the  
17 above residual functional capacity assessment.

18 (AR at 18-19 (citations omitted).)

19 An ALJ's assessment of pain severity and claimant credibility is entitled to  
20 "great weight." Weetman v. Sullivan, 877 F.2d 20, 22 (9th Cir. 1989); Nyman v.  
21 Heckler, 779 F.2d 528, 531 (9th Cir. 1986). When, as here, an ALJ's disbelief of a  
22 claimant's testimony is a critical factor in a decision to deny benefits, the ALJ  
23 must make explicit credibility findings. Rashad v. Sullivan, 903 F.2d 1229, 1231  
24 (9th Cir. 1990); Lewin v. Schweiker, 654 F.2d 631, 635 (9th Cir. 1981); see also  
25 Albalos v. Sullivan, 907 F.2d 871, 874 (9th Cir. 1990) (an implicit finding that  
26 claimant was not credible is insufficient).

27 Under the "Cotton test," where the claimant has produced objective medical  
28 evidence of an impairment which could reasonably be expected to produce some

1 degree of pain and/or other symptoms, and the record is devoid of any affirmative  
2 evidence of malingering, the ALJ may reject the claimant's testimony regarding  
3 the severity of the claimant's pain and/or other symptoms only if the ALJ makes  
4 specific findings stating clear and convincing reasons for doing so. See Cotton v.  
5 Bowen, 799 F.2d 1403, 1407 (9th Cir. 1986); see also Smolen v. Chater, 80 F.3d  
6 1273, 1281 (9th Cir. 1996); Dodrill v. Shalala, 12 F.3d 915, 918 (9th Cir. 1993);  
7 Bunnell v. Sullivan, 947 F.2d 341, 343 (9th Cir. 1991).

8 To determine whether a claimant's testimony regarding the severity of his  
9 symptoms is credible, the ALJ may consider, *inter alia*, the following evidence:  
10 (1) ordinary techniques of credibility evaluation, such as the claimant's reputation  
11 for lying, prior inconsistent statements concerning the symptoms, and other  
12 testimony by the claimant that appears less than candid; (2) unexplained or  
13 inadequately explained failure to seek treatment or to follow a prescribed course of  
14 treatment; (3) the claimant's daily activities; and (4) testimony from physicians  
15 and third parties concerning the nature, severity, and effect of the claimant's  
16 symptoms. Thomas v. Barnhart, 278 F.3d 947, 958-59 (9th Cir. 2002); see also  
17 Smolen, 80 F.3d at 1284.

18 Here, the ALJ provided several clear and convincing reasons for finding  
19 Plaintiff's subjective complaints of impairment less than credible.

20 The ALJ cited Plaintiff's ability to engage in activities of daily living that  
21 require the same abilities as those necessary to obtain and maintain employment,  
22 and noted that Plaintiff's ability to perform these activities is inconsistent with an  
23 incapacitating or debilitating condition. (AR at 18.) Daily activities may be  
24 grounds for an adverse credibility finding "if a claimant is able to spend a  
25 substantial part of his day engaged in pursuits involving the performance of  
26 physical functions that are transferable to a work setting." Fair v. Bowen, 885  
27 F.2d 597, 603 (9th Cir. 1989); see also Burch, 400 F.3d at 681 (adverse credibility  
28 finding based on daily activities may be proper "if a claimant engaged in



1 numerous daily activities involving skills that could be transferred to the  
2 workplace”). In her April 23, 2008, Function Report, Plaintiff stated that she  
3 prepares meals for herself, completes housework, has no difficulty caring for  
4 herself, is able to go out alone and drive herself, goes shopping “a couple days a  
5 week for an hour,” visits with family and friends, and has no problem paying  
6 attention. (AR at 145-50.) Although Plaintiff did complain of getting tired and  
7 needing rest, substantial evidence supports the ALJ’s conclusion that Plaintiff is  
8 able to engage in a significant amount of daily activities, and that Plaintiff’s daily  
9 activities, such as interacting with others, completing household chores and  
10 shopping, and being able to pay attention for long periods, are directly  
11 transferrable to a work environment.

12 The ALJ also reasonably concluded that Plaintiff’s allegations that she  
13 needs to use the restroom every three to five minutes are inconsistent with the  
14 evidence of record. Despite Plaintiff’s allegations that she cannot go more than  
15 five minutes without using the restroom, there is no indication in the transcript of  
16 the hearing before the ALJ that the proceeding was stopped so that Plaintiff could  
17 use the restroom. (Id. at 26-50.) In fact, in his opinion, the ALJ specifically stated  
18 that Plaintiff did not take any restroom breaks during the forty-minute hearing.  
19 (Id. at 19.)<sup>4</sup> Moreover, in her Function Report, Plaintiff stated that she was able to  
20 go shopping twice a week for an hour, and that every six months she travels the  
21 distance from her home in Fontana to her cousin’s house in Los Angeles. (Id. at  
22 148, 150.) Significantly, there is no medical evidence in the record to support  
23 Plaintiff’s allegation of such frequent use of the restroom. Rather, in one note,  
24 Plaintiff’s treating physician stated that he could not rule out factitious disorder  
25 (id. at 481), and on another occasion noted that the nephrologist indicated that  
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27 <sup>4</sup> The only evidence of a pause in the proceeding was when the ALJ went  
28 off the record as he attempted to reach the medical expert, who testified by phone.  
(AR at 30.)

1 Plaintiff's condition might be psychosomatization. (Id. at 502.) Crucially,  
2 Plaintiff often denied to her treating physicians that she experienced symptoms of  
3 urinary frequency or urgency. (Id. at 475, 493, 497, 503.)

4 In addition, the ALJ's conclusion that some of Plaintiff's allegations were  
5 contradicted by the record is supported by substantial evidence. Plaintiff gave  
6 conflicting testimony at the hearing regarding the effectiveness of her prescribed  
7 medications. For instance, she testified that her antibiotics were not working. (Id.  
8 at 39.) Then she testified that the antibiotics "control" her symptoms but do not  
9 "completely help it." (Id. at 40.) She also testified that even with medication she  
10 still had to use the restroom every five minutes. (Id. at 41.) Finally, she testified  
11 that when she first begins taking the medication, she is able to go longer than five  
12 minutes without using the restroom, but after three days she "feel[s] bad again."  
13 (Id. at 43.) Despite these varied allegations, Plaintiff never complained to her  
14 doctors about the effectiveness of her medications. In fact, on March 17, 2008,  
15 Plaintiff reported to Dr. Avent that her antibiotics were helping, except when she  
16 ate meat. (Id. at 480.) On May 23, 2007, Plaintiff informed her treating physician  
17 that when she suffers from bladder related symptoms, the only thing that helps is  
18 antibiotics. (Id. at 499.) Also, as noted by the ALJ on August 15, 2007, Plaintiff  
19 was "adamant that she need[ed] a [prescription] for either Cipro or Macrobid, max  
20 dose for either, for 10 days" because she was afraid of a recurrence of a urinary  
21 tract infection. (Id. at 493.)

22 Finally, the ALJ correctly stated that Plaintiff was inconsistent in her  
23 allegations as to the cause of her disability. On April 4, 2007, while being treated  
24 for back pain, Plaintiff requested that her physician place her on disability for one  
25 month, but her physician refused. (Id. at 505.) In addition, on May 21, 2008,  
26 Plaintiff informed her treating physician that she was unable to work due to  
27 fatigue related to the removal of one of her kidneys. However, on the same day,  
28 she informed her doctor that she was seeing another physician "for her nerves,"

1 and that physician had kept her on disability. (Id. at 475.) Despite these earlier  
2 claims to her doctors, Plaintiff testified at the hearing before the ALJ that it was  
3 her depression and overactive bladder that prevented her from working. (Id. at  
4 41.)

5 Based on the foregoing, the Court finds that the ALJ stated specific and  
6 legitimate reasons, supported by substantial evidence in the record, for rejecting  
7 Plaintiff's credibility. Thus, there was no error.

8 **D. The ALJ Properly Considered the Lay Witness Statements.**

9 Plaintiff claims that the ALJ erred in ignoring the Third Party Function  
10 Report completed by Plaintiff's daughter. (JS at 18-19.) The Court disagrees.

11 Plaintiff's daughter reported in a April 23, 2008, Third Party Function  
12 Report that she visits Plaintiff every other day and that Plaintiff is in bed every  
13 time she visits. (AR at 137.) Plaintiff's daughter also claimed that Plaintiff cannot  
14 complete household chores and needs help with cleaning. (Id. at 139.) She  
15 claimed that Plaintiff often is able to cook her own meals, but sometimes needs  
16 assistance. (Id. at 139.) She stated that Plaintiff is only able to do household  
17 shopping once every two weeks and that she only goes out for thirty minutes. (Id.  
18 at 140.) Plaintiff's daughter also stated that Plaintiff does not spend time with  
19 others, but rather only talks on the phone. (Id. at 141.) She also claimed that  
20 Plaintiff has great difficulty with paying attention and following instructions. (Id.  
21 at 142.) As to her physical limitations, Plaintiff's daughter estimated that Plaintiff  
22 could lift five pounds, stand for five minutes, walk for five minutes, and only  
23 occasionally bend. She stated that Plaintiff could not squat, kneel, and climb  
24 stairs. (Id.)

25 Title 20 C.F.R. §§ 404.1513(d) and 416.913(d) provides that, in addition to  
26 medical evidence, the Commissioner "may also use evidence from other sources to  
27 show the severity of [an individual's] impairment(s) and how it affects [her]  
28 ability to work," and the Ninth Circuit has repeatedly held that "[d]escriptions by

1 friends and family members in a position to observe a claimant's symptoms and  
2 daily activities have routinely been treated as competent evidence." Sprague v.  
3 Bowen, 812 F.2d 1226, 1232 (9th Cir. 1987). This applies equally to the sworn  
4 hearing testimony of witnesses (see Nguyen v. Chater, 100 F.3d 1462, 1467 (9th  
5 Cir. 1996)), as well as to unsworn statements and letters of friends and relatives.  
6 See Schneider v. Comm'r of Soc. Sec. Admin., 223 F.3d 968, 975 (9th Cir. 2000).  
7 If the ALJ chooses to reject such evidence from "other sources," he may not do so  
8 without comment. Nguyen, 100 F.3d at 1467. The ALJ must provide "reasons  
9 that are germane to each witness." Dodrill, 12 F.3d at 919.

10 The mere fact that the lay witness is a relative may not be a valid reason  
11 alone for rejecting lay witness testimony. Regennitter v. Comm'r of Soc. Sec.  
12 Admin., 166 F.3d 1294, 1298 (9th Cir. 1999). An ALJ may, however, reject a lay  
13 witness's testimony if the ALJ finds the witness to be biased. See, e.g., Greger v.  
14 Barnhart, 464 F.3d 968, 972 (9th Cir. 2006) (the ALJ's consideration of the  
15 claimant's prior girlfriend's close relationship with the plaintiff and desire to help  
16 him as a possible reason for bias was a reason germane to that witness). Other  
17 reasons "germane" to a particular witness include that the witness' testimony is  
18 contradicted by the medical evidence of record. See Bayliss v. Barnhart, 427 F. 3d  
19 1211, 1218 (9th Cir. 2005); Lewis v. Apfel, 236 F.3d 503, 511 (9th Cir. 2001)  
20 ("One reason for which an ALJ may discount lay testimony is that it conflicts with  
21 medical evidence"); Vincent ex rel. Vincent v. Heckler, 739 F.2d 1393, 1395 (9th  
22 Cir. 1984) (per curiam) ("The ALJ properly discounted lay testimony that  
23 conflicted with the available medical evidence.").

24 Here, the ALJ acknowledged the Third Party Function Report submitted by  
25 Plaintiff's daughter and rejected it as follows:

26 The undersigned also read and considered the third party function  
27 report completed by the claimant's daughter, Cecilia Meza, on April 23,  
28 2008. The statements made by the claimant's daughter have not been

1 given under oath and appear to be no more than a parroting of the  
2 subjective complaints already testified to and reported by the claimant.  
3 Ms. Meza stated the claimant had severely limited physical activities  
4 and spent the majority of her days in bed. She reported the claimant  
5 could not lift more than five pounds and could not stand and/or walk for  
6 more than five minutes. The limitations stated by Ms. Meza are even  
7 more restrictive than the claimant's own allegations. The claimant's  
8 daughter is not a medical professional and as a lay witness she is not  
9 competent to make a diagnosis or argue the severity of the claimant's  
10 symptoms in relationship to her ability to work or the side effects of  
11 medications. The claimant's daughter has a familial interest in seeing  
12 the claimant receive benefits. Therefore her opinion is not an unbiased  
13 one. Most importantly, her statements are not supported by the clinical  
14 or diagnostic medical evidence that is discussed more thoroughly below.

15 (AR at 19 (citation omitted).)

16 Thus, the ALJ found that Ms. Meza's report, while it parroted Plaintiff's  
17 complaints, in some ways was even more restrictive than the complaints reported  
18 by Plaintiff, was not given under oath, may have been influenced by a desire to  
19 help her mother obtain benefits,<sup>5</sup> was inconsistent with the medical evidence, and  
20 to the extent Ms. Meza attempted to make a diagnosis or argue Plaintiff's inability  
21 to work, was not competent testimony. While the Court does not consider the  
22 persuasiveness of the ALJ's reasons for rejecting the statements of Plaintiff's  
23 daughter, ultimately, the ALJ provided several reasons for rejecting the third party  
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26 <sup>5</sup> While this finding might not withstand scrutiny if it was the sole  
27 justification offered by the ALJ, given that the ALJ offered other reasons casting  
28 into doubt the extent of limitation to which Plaintiff's daughter testified, the Court  
finds that the credibility determination was, as a whole, supported by sufficient  
reasons germane to the witness.

1 evidence that were germane to the witness.

2         Based on the foregoing, the Court finds that the ALJ fulfilled his duty to  
3 consider the evidence and provided sufficient reasons for rejecting the lay witness  
4 testimony. Thus, there was no error.

5   **IV.**  
6   **ORDER**

7         Based on the foregoing, IT THEREFORE IS ORDERED that Judgment be  
8 entered affirming the decision of the Commissioner, and dismissing this action  
9 with prejudice.

10  
11 Dated: April 18, 2011



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HONORABLE OSWALD PARADA  
United States Magistrate Judge