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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

LORI ANN BARRY,)	Case No. EDCV 11-01657-MLG
)	
Plaintiff,)	MEMORANDUM OPINION AND ORDER
)	
v.)	
)	
MICHAEL J. ASTRUE,)	
Commissioner of the Social)	
Security Administration,)	
)	
Defendant.)	
_____)	

Plaintiff Lori Ann Barry seeks judicial review of the Commissioner's denial of her application for disability insurance benefits ("DIB") and supplemental security income benefits ("SSI"). For the reasons stated below, the decision of the Commissioner is affirmed and the action is dismissed with prejudice.

I. BACKGROUND

Plaintiff was born on February 18, 1968. (AR at 70). She has relevant work experience as a merchandise and sales attendant. (AR at 17). Plaintiff filed her applications for benefits on December 16, 2008, alleging disability beginning December 15, 2008, due to psychological impairments. (AR at 10, 164). The Social Security

1 Administration denied Plaintiff's applications initially and upon
2 reconsideration. (AR at 10).

3 A hearing was held before Administrative Law Judge ("ALJ")
4 Sharilyn Hopson on July 20, 2010. (AR at 10). Plaintiff, who was
5 represented by counsel, testified at the hearing, as did a
6 vocational expert ("VE"). The ALJ issued a decision on September
7 13, 2010, denying Plaintiff's application. (AR at 10-18). The ALJ
8 found that Plaintiff suffers from the following severe impairments:
9 morbid obesity, major depressive disorder, anxiety, type 2 diabetes
10 mellitus, adult attention deficit disorder ("ADD"), irritable bowel
11 syndrome, and migraines. (AR at 13). Nevertheless, the ALJ
12 determined that Plaintiff has the residual functional capacity
13 ("RFC") to perform medium work and is capable of performing her
14 past relevant work. (AR at 17-18). The Appeals Council denied
15 Plaintiff's request for review (AR at 1).

16 Plaintiff commenced this action for judicial review on
17 November 1, 2011. On May 2, 2012, the parties filed a joint
18 statement of disputed issues ("Joint Stip."). Plaintiff contends
19 that the ALJ erred in several respects. First, the ALJ failed to
20 properly consider the relevant medical evidence, including the
21 opinions of Melissa Darnell, a marriage and family therapist, and
22 Bipin Patel, M.D., her treating psychiatrist, while improperly
23 giving significant weight to the opinion of state examining
24 physician Linda M. Smith, M.D. (Joint Stip. at 4-8). Second, the
25 ALJ improperly assessed her credibility in considering her
26 subjective complaints. (Joint Stip. at 12-14). Finally, the ALJ
27 failed to properly consider the third party statements of
28 claimant's friend, Juanita Medina. (Joint Stip. at 17-19).

1 Plaintiff seeks reversal and an award of benefits, or
2 alternatively, remand for further administrative proceedings.
3 (Joint Stip. at 21). Defendant requests that the ALJ's decision be
4 affirmed, or, if the Court finds that the ALJ committed reversible
5 error, that the Court remand for further administrative
6 proceedings. (Joint Stip. at 22).

7
8 **II. STANDARD OF REVIEW**

9 Under 42 U.S.C. § 405(g), a district court may review the
10 Commissioner's decision to deny benefits. The Commissioner or ALJ's
11 decision must be upheld unless "the ALJ's findings are based on
12 legal error or are not supported by substantial evidence in the
13 record as a whole." *Tackett v. Apfel*, 180 F.3d 1094, 1097 (9th Cir.
14 1990); *Parra v. Astrue*, 481 F.3d 742, 746 (9th Cir. 2007).
15 Substantial evidence means such evidence as a reasonable person
16 might accept as adequate to support a conclusion. *Richardson v.*
17 *Perales*, 402 U.S. 389, 401 (1971); *Widmark v. Barnhart*, 454 F.3d
18 1063, 1066 (9th Cir. 2006). It is more than a scintilla, but less
19 than a preponderance. *Robbins v. Soc. Sec. Admin.*, 466 F.3d 880,
20 882 (9th Cir. 2006). To determine whether substantial evidence
21 supports a finding, the reviewing court "must review the
22 administrative record as a whole, weighing both the evidence that
23 supports and the evidence that detracts from the Commissioner's
24 conclusion." *Reddick v. Chater*, 157 F.3d 715, 720 (9th Cir. 1996).
25 "If the evidence can support either affirming or reversing the
26 ALJ's conclusion," the reviewing court "may not substitute its
27 judgment for that of the ALJ." *Robbins*, 466 F.3d at 882.

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1 **III. Analysis**

2 **A. The ALJ Appropriately Considered the Relevant Medical**
3 **Evidence**

4 **1. The Opinion of Therapist Melissa Darnell**

5 The record contains a brief letter from Plaintiff's therapist,
6 Melissa Darnell, stating that she had been seeing Plaintiff on a
7 biweekly basis for approximately five months. (AR at 331). The
8 letter explains that Plaintiff suffers from irritable bowel
9 syndrome, high blood pressure, diabetes, bipolar depression,
10 anxiety disorder, and ADD. The letter further states that these
11 mental health issues and medical conditions "interfere[] with
12 [Plaintiff's] ability to obtain and then maintain full-time
13 employment." (AR at 331). The record also contains several pages of
14 notes from Ms. Darnell, which discuss treatment and the diagnosis
15 that Plaintiff suffers from depression. (AR at 388-89, 395-96).

16 In her decision, the ALJ noted that she had considered the
17 correspondence from Ms. Darnell, but that because it was not from
18 an acceptable medical source, she did not have to give it the same
19 consideration as she would to a qualifying medical source opinion.
20 (AR at 17). As to Darnell's comments about Plaintiff's ability to
21 maintain full-time employment, the ALJ further explained that "such
22 disability statements are reserved to the Commissioner." (AR at
23 17).

24 The parties dispute whether the ALJ was required to provide
25 appropriate reasons for rejecting the opinions of Ms. Darnell.
26
27
28

1 (Joint Stip. at 4-6, 9-10).¹ However, the ALJ did not reject Ms.
2 Darnell's medical diagnoses. Rather, the ALJ's found that Plaintiff
3 does suffer from each of the severe impairments listed in Ms.
4 Darnell's letter.² (AR at 12, 331). Moreover, there do not appear
5 to be any inconsistencies between the ALJ's RFC determination and
6 Ms. Darnell's treatment notes.(AR at 13, 388-89, 395-96)

7 While the ALJ did reject Ms. Darnell's opinion that
8 Plaintiff's conditions interfere with her ability to obtain and
9 maintain full-time employment, she provided an entirely appropriate
10 reason for doing so. The ultimate determination of disability (i.e.
11 whether a claimant can perform work in the national economy) rests
12 solely with the Commissioner, and the statement of a medical source
13 that a claimant is "unable to work" is not entitled to special
14 weight. 20 C.F.R. 416.927(d)(1); see *Tonapetyan v. Halter*, 242 F.3d
15 1144, 1148-49 (9th Cir. 2001) (ALJ not bound by opinion of treating
16 physician with respect to ultimate determination of disability);
17 *Martinez v. Astrue*, 261 Fed.Appx 33, 35 (9th Cir. 2007) ("[T]he
18 opinion that [the claimant] is unable to work is not a medical
19 opinion ... [and] is therefore not accorded the weight of a medical
20

21 ¹ In *Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012),
22 the Court noted that the opinions of "other medical sources" as
23 defined by 20 C.F.R. § 404.1513(d), are not entitled to the same
24 deference as acceptable medical sources and their opinions may be
discounted if the ALJ "gives reasons germane" for doing so.

25 ² While the ALJ did not explicitly find that Plaintiff suffers
26 from high blood pressure, she did determine that Plaintiff suffers
27 from the severe impairment of morbid obesity, and high blood
28 pressure is one of the symptoms of morbid obesity.
<http://www.mayoclinic.com/health/obesity/DS00314/DSECTION=complications>.

1 opinion."). Accordingly, it was appropriate for the ALJ reject Ms.
2 Darnell's opinion on Plaintiff's ability to work because "such
3 disability statements are reserved to the Commissioner." (AR at
4 17).

5 **2. The Opinion of Treating Psychiatrist Dr. Patel**

6 Plaintiff contends that the ALJ failed to give weight to an
7 assessment from treating psychiatrist Bipin Patel, M.D., without
8 providing adequate reasons for doing so. (Joint Stip. at 6-8). The
9 treating records from Dr. Patel are dated between January and May
10 of 2009.(AR at 318-23). In an initial assessment dated January 31,
11 2009, Dr. Patel noted that Plaintiff's depression and anxiety
12 interfere with interpersonal, social and occupational functioning.
13 (AR at 323). He also noted that Plaintiff had a current Global
14 Assessment of Functioning ("GAF") score of 38, but that it had been
15 as high as 68 in the past year. (AR at 321). In Dr. Patel's follow-
16 up progress notes, he noted that Plaintiff was taking her
17 prescribed medication but still felt depressed. (AR at 318-320).

18 Contrary to Plaintiff's contention that the "ALJ completely
19 ignored without any comment whatsoever this important assessment
20 from the treating psychiatrist," the ALJ did reference Dr. Patel's
21 report in her decision. (AR at 16). While the decision does not
22 mention Dr. Patel by name, it specifically refers to his report and
23 its findings that Plaintiff suffers from depression and anxiety
24 disorder and was being treated with medication. (AR at 16). The
25 ALJ's RFC determination appears entirely consistent with Dr.
26 Patel's opinion, as it took into account the diagnosis of major

1 depressive disorder. (AR at 12-13).³

2 Plaintiff argues in particular that it was error for the ALJ
3 to fail to acknowledge the low GAF scores assessed by Dr. Patel.
4 The GAF Scale provides a measure for an individual's overall level
5 of psychological, social, and occupational functioning. Am.
6 Psychiatric Ass' n, Diagnostic and Statistical Manual of Mental
7 Disorders 30 (4th ed. 2000) ("DSM IV"). However, a GAF score is not
8 determinative of mental disability or limitation for Social
9 Security purposes. 65 Fed.Reg. 50746, 50764-50765 (Aug. 21, 2000)
10 ("The GAF score does not have a direct correlation to the severity
11 requirements in our mental disorders listings.") Neither the Social
12 Security regulations nor case law require an ALJ to consider a
13 claimant's GAF score. *Orellana v. Astrue*, 2008 WL 398834, at *9
14 (E.D. Cal. Feb. 12, 2008) ("While a GAF score may help the ALJ
15 assess Claimant's ability to work, it is not essential and the
16 ALJ's failure to rely on the GAF does not constitute an improper
17 application of the law."); see also *Howard v. Comm'r of Soc. Sec.*,
18 276 F.3d 235, 241 (6th Cir. 2002). Thus, the ALJ did not err in
19 failing to mention the GAF scores given by Dr. Patel. See *Vincent*
20 *on Behalf of Vincent v. Heckler*, 739 F.2d 1393, 1394-95 (9th Cir.
21 1984) (the ALJ need only explain why "significant probative

22
23 ³ To the extent it may have been error for the ALJ to reject
24 Dr. Patel's diagnosis of Anxiety Disorder without providing reasons
25 for doing so, this error was harmless. See *Tommasetti v. Astrue*,
26 533 F.3d 1035, 1038 (9th Cir. 2008) (harmless error rule applies to
27 review of administrative decisions regarding disability). The RFC
28 includes the limitations that Plaintiff can perform only "simple
and repetitive tasks," is "precluded from doing fast paced work[],"
and can have only "non-intense contact with the public." Nothing in
Dr. Patel's assessment suggests that Plaintiff's Anxiety Disorder
would require additional functional limitations.

1 evidence has been rejected"). Furthermore, even Dr. Patel's
2 assessment notes that Plaintiff's score was as high as 68 within
3 the year, a score which denotes only "some mild symptoms" or "some
4 difficulty in functioning," but "generally functioning pretty
5 well." (AR at 321); DSM IV at 34.

6 Accordingly, the ALJ gave appropriate weight to the opinion of
7 Dr. Patel.

8 **3. The Opinion of State Examining Physician Dr. Smith**

9 Plaintiff contends that it was improper for the ALJ to give
10 significant weight to the opinion of consultative examiner Linda M.
11 Smith, M.D. (Joint Stip. at 6-7). Dr. Smith examined Plaintiff on
12 February 17, 2009. (AR at 295-301). She diagnosed Plaintiff with
13 Depressive Disorder, but noted that Plaintiff had stated that her
14 medication, Effexor, was improving everything. Dr. Smith also found
15 that Plaintiff was able to interact appropriately, understand and
16 remember commands, and that her "psychiatric prognosis is good."
17 (AR at 300). Dr. Smith did not observe "any evidence that
18 [Plaintiff] would not be able to work at this time." (*Id.*)

19 A consultative examiner's medical opinion on an applicant's
20 RFC may itself constitute substantial evidence if it rests on
21 independent examination. *Tonapetyan v. Halter*, 242 F.3d 1144, 1149
22 (9th Cir. 2001). Here, Dr. Smith's opinion rested on an independent
23 examination of Plaintiff, and therefore there was nothing
24 inappropriate about the ALJ's reliance on Dr. Smith's opinion.

25 **B. The ALJ Properly Evaluated Plaintiff's Credibility**

26 Plaintiff argues that the ALJ failed to properly evaluate her
27 credibility regarding her subjective complaints in determining her
28 RFC. At the hearing, Plaintiff testified that she left her job in

1 December 2008 because she could no longer handle the pressure of
2 the job or perform as expected. (AR at 28). She further testified
3 that she experiences the following symptoms: trouble handling more
4 than one task at a time, inability to handle any pressure
5 whatsoever, memory and concentration problems, low energy, panic
6 attacks that occur a couple of times per month, uncontrollable
7 crying jags that occur a few times per week, daily nausea,
8 irritable bowel syndrome causing accidents when she cannot reach
9 the toilet in time, headaches which put her in bed for at least a
10 day triggered by stress, suicidal thoughts, and numbness of the
11 feet. (AR at 29-52).

12 To determine whether a claimant's testimony about subjective
13 pain or symptoms is credible, an ALJ must engage in a two-step
14 analysis. *Vasquez v. Astrue*, 572 F.3d 586, 591 (9th Cir. 2009)
15 (citing *Lingenfelter v. Astrue*, 504 F.3d 1028, 1035-36 (9th Cir.
16 2007)). First, the ALJ must determine whether the claimant has
17 presented objective medical evidence of an underlying impairment
18 which could reasonably be expected to produce the alleged pain or
19 other symptoms. *Lingenfelter*, 504 F.3d at 1036. "[O]nce the
20 claimant produces objective medical evidence of an underlying
21 impairment, an adjudicator may not reject a claimant's subjective
22 complaints based solely on a lack of objective medical evidence to
23 fully corroborate the alleged severity of pain." *Bunnell v.*
24 *Sullivan*, 947 F.2d 341, 345 (9th Cir. 1991) (en banc). To the
25 extent that an individual's claims of functional limitations and
26 restrictions due to symptoms are reasonably consistent with the
27 objective medical evidence and other evidence in the case, the
28 claimant's allegations will be credited. SSR 96-7p, 1996 WL 374186

1 at *2 (explaining 20 C.F.R. §§ 404.1529(c)(4), 416.929(c)(4)).⁴

2 Unless there is affirmative evidence showing that the claimant
3 is malingering, the ALJ must provide specific, clear and convincing
4 reasons for discrediting a claimant's complaints. *Robbins*, 466 F.3d
5 at 883. "General findings are insufficient; rather, the ALJ must
6 identify what testimony is not credible and what evidence
7 undermines the claimant's complaints." *Reddick v. Chater*, 157 F.3d
8 715, 722 (9th Cir. 1996) (quoting *Lester v. Chater*, 81 F.3d 821,
9 834 (9th Cir. 1996)). The ALJ must consider a claimant's work
10 record, observations of medical providers and third parties with
11 knowledge of claimant's limitations, aggravating factors,
12 functional restrictions caused by symptoms, effects of medication,
13 and the claimant's daily activities. *Smolen v. Chater*, 80 F.3d
14 1273, 1283-84 & n.8 (9th Cir. 1996). The ALJ may also employ other
15 ordinary techniques of credibility evaluation. *Id.* (citations
16 omitted).

17 Here, the ALJ concluded that Plaintiff's "medically
18 determinable impairments could reasonably be expected to cause some
19 of the alleged symptoms." (AR at 16). However, the ALJ rejected as
20 not credible Plaintiff's statements "concerning the intensity,
21 persistence and limiting effects of these symptoms" to the extent
22 they are inconsistent with the ALJ's RFC determination. (AR at 16).
23 As there was no evidence of malingering, the ALJ was required to

25 ⁴ "The Secretary issues Social Security Rulings to clarify the
26 Secretary's regulations and policy Although SSRs are not
27 published in the federal register and do not have the force of law,
28 [the Ninth Circuit] nevertheless give[s] deference to the
Secretary's interpretation of its regulations." *Bunnell*, 947 F.2d
at 346 n.3.

1 provide clear and convincing reasons for rejecting this testimony.

2 The ALJ provided clear and convincing reasons for rejecting
3 Plaintiff's testimony. The ALJ found that Petitioner's activities
4 of daily living undermined her allegations of functional
5 limitations. (AR at 15). Plaintiff's testimony at the hearing, as
6 well as the function report she submitted dated January 6, 2009,
7 revealed that she could perform the following activities: taking
8 care of her son, driving, shopping for groceries and other items,
9 taking care of personal hygiene, helping with housework, preparing
10 her own food, and regularly talking on the phone with her sister.
11 (AR at 30-36, 171-78). Although a claimant "does not need to be
12 'utterly incapacitated' in order to be disabled," *Vertigan v.*
13 *Halter*, 260 F.3d 1044, 1050 (9th Cir. 2001), the ability to perform
14 certain activities of daily life can support a finding that the
15 claimant's reports of his or her impairment are not fully credible.
16 See *Bray v. Comm'r of Soc. Sec. Admin.*, 554 F.3d 1219, 1227 (9th
17 Cir. 2009); *Curry v. Sullivan*, 925 F.2d 1127, 1130 (9th Cir. 1990)
18 (finding that the claimant's ability to "take care of her personal
19 needs, prepare easy meals, do light housework and shop for some
20 groceries ... may be seen as inconsistent with the presence of a
21 condition which would preclude all work activity") (citing *Fair v.*
22 *Bowen*, 885 F.2d 597, 604 (9th Cir. 1989)).

23 Plaintiff contends that the ALJ "mischaracterized" her
24 statements regarding daily activities, since she also testified
25 that she often has help with the activities and does not perform
26 all of them regularly. (Joint Stip. at 12-13). However, when a
27 Plaintiff's statements support different interpretations, a
28 reviewing court should not second guess an ALJ's reasonable

1 interpretation of the testimony. *Rollins v. Massanari*, 261 F.3d
2 853, 857 (9th Cir. 2001) ("It is true that Rollins' testimony was
3 somewhat equivocal about how regularly she was able to keep up with
4 all of these activities, and the ALJ's interpretation of her
5 testimony may not be the only reasonable one. But it is still a
6 reasonable interpretation and is supported by substantial evidence;
7 thus, it is not our role to second-guess it."). Here, while
8 Plaintiff did testify that some of her activities are performed on
9 a limited basis, the ALJ's assessment that Plaintiff is able to
10 perform these activities was a reasonable interpretation of her
11 testimony. Accordingly, the ALJ's finding that Plaintiff's
12 activities of daily living undermined her credibility was supported
13 by substantial evidence.

14 The ALJ also discussed the observations of a Social Security
15 claims representative who completed a disability report on December
16 16, 2008, after conducting a lengthy face-to-face interview with
17 Plaintiff. (AR at 15, 159-62). The claims representative found that
18 while Plaintiff had trouble answering questions and began to cry a
19 few times during the interview, she otherwise responded well to
20 questions and exhibited no other physical or mental problems.⁵
21 Though not mentioned by the ALJ, a second report completed by a
22 different claims representative on April 28, 2009, also found that
23 Plaintiff exhibited no physical or mental difficulties, aside from
24 trouble with answering questions. (AR at 187-89). It is appropriate

26 ⁵ While the ALJ, citing to the claims representative's report,
27 stated that "[t]he claims representative noted that the claimant
28 was well groomed but breathing hard," the report contains no such
notation. (AR at 15, 159-62).

1 for an ALJ to consider whether a claimant's subjective complaints
2 are inconsistent with her conduct. *Thomas v. Barnhart*, 278 F.3d
3 948, 958-59 (9th Cir. 2002) (inconsistency between the claimant's
4 testimony and conduct supported rejection of claimant's
5 credibility). Here, it was appropriate for the ALJ to consider that
6 despite Plaintiff's testimony that she suffers from debilitating
7 physical and mental impairments, a claims representative observed
8 that Plaintiff could understand questions, concentrate, and
9 generally behave appropriately in an interview setting.

10 These findings constitute clear and convincing reasons for the
11 ALJ's rejection of Plaintiff's subjective testimony. *Smolen*, 80
12 F.3d at 1284. It is the responsibility of the ALJ to determine
13 credibility and resolve conflicts or ambiguities in the evidence,
14 *Magallanes v. Brown*, 881 F.2d 747, 750 (9th Cir. 1989), and a
15 reviewing court may not second-guess the ALJ's credibility
16 determination when it is supported by substantial evidence in the
17 record, as here. *See Fair*, 885 F.2d at 604. Accordingly, it was
18 reasonable for the ALJ to rely on the reasons stated above in
19 finding that Plaintiff's subjective testimony regarding the
20 severity of her symptoms was not wholly credible.⁶

21 _____
22 ⁶ The ALJ also noted that although Plaintiff alleged having
23 neuropathy of the feet, there was no objective medical evidence to
24 support these allegations. (AR at 15). To the extent the ALJ
25 intended this to be an additional reason for rejecting Plaintiff's
26 overall testimony regarding her complaints, this reason does not
27 provide a legitimate basis for discrediting Plaintiff. Plaintiff
28 testified that she had discussed the neuropathy problems with a
doctor only a couple of days before the hearing, and that the
doctor had said he would refer her to a podiatrist. (AR at 39).
Given this timing, it is unsurprising that the record did not
contain evidence in support of these allegations. Moreover,

1 **C. The ALJ Properly Considered the Lay Witness's Statements**

2 Plaintiff contends that the ALJ improperly discounted the
3 statements of lay witness Juanita Medina, a friend of Plaintiff.
4 (Joint Stip. at 17-19.) On January 9, 2008, Ms. Medina completed a
5 Third Party Function Report, detailing her observations of
6 Plaintiff's abilities and daily activities. (AR at 179-86.) The ALJ
7 found that Ms. Medina was not fully credible for the following
8 reasons: (1) the report merely "mirrors" Plaintiff's allegations;
9 (2) Ms. Medina is not a medical professional and therefore "is not
10 competent to make a diagnosis or argue the severity of the
11 claimant's symptoms in her relationship to her ability to work;"
12 (3) as Plaintiff's friend, she has the motivation "to be helpful to
13 the claimant so she can receive benefits;" and (4) her statements
14 were not made under oath. (AR at 15).

15 A lay witness can provide testimony about a claimant's
16 symptoms and limitations. See *Nguyen v. Chater*, 100 F.3d 1462, 1467
17 (9th Cir. 1996). "Lay testimony as to a claimant's symptoms is
18 competent evidence that an ALJ must take into account, unless he or
19 she expressly determines to disregard such testimony and gives
20 reasons germane to each witness for doing so." *Lewis v. Apfel*, 236
21 F.3d 503, 511 (9th Cir. 2001); see also *Dodrill v. Shalala*, 12 F.3d
22 915, 918-19 (9th Cir. 1993). However, if the ALJ gives germane

23
24 _____
25 individuals with diabetes frequently suffer from neuropathy. See
26 <http://diabetes.niddk.nih.gov/dm/pubs/neuropathies/>. Nevertheless,
27 any error is harmless given that the ALJ provided other well-
28 supported reasons for not fully crediting Plaintiff's statements
regarding her subjective complaints. See *Tommasetti v. Astrue*, 533
F.3d 1035, 1038 (9th Cir. 2008) (harmless error rule applies to
review of administrative decisions regarding disability).

1 reasons for rejecting the testimony of a witness, including the
2 claimant herself, "the ALJ need only point to those reasons when
3 rejecting similar testimony by a different witness." *Molina*, 674
4 F.3d at 1114 (citing *Valentine v. Astrue*, 574 F.3d 685, 694 (9th
5 Cir. 2009)). Even an ALJ's failure to discuss lay witness testimony
6 at all is harmless when it is "inconsequential to the ultimate
7 nondisability determination." *Id.* at 1115 (citing *Carmickle v.*
8 *Comm'r, Soc. Sec.*, 533 F.3d 1155, 1162 (9th Cir. 2008)).

9 As discussed in detail above, the ALJ properly rejected
10 Plaintiff's testimony. Ms. Medina's report provides essentially the
11 same information regarding Plaintiff's alleged symptoms and
12 limitations as Plaintiff's testimony and does not describe any
13 limitations beyond those Plaintiff herself described. (See AR at
14 179-86.) Accordingly, the ALJ properly rejected the lay witness
15 report under the standards established in *Molina*. See also
16 *Valentine*, 574 F.3d at 694 (holding that because "the ALJ provided
17 clear and convincing reasons for rejecting [the claimant's] own
18 subjective complaints, and because [the lay witness's] testimony
19 was similar to such complaints, it follows that the ALJ also gave
20 germane reasons for rejecting [the lay witness's] testimony").

21 Furthermore, to establish reversible error, Plaintiff must
22 specifically show that Mr. Medina's testimony, if credited, would
23 alter the ultimate nondisability determination. *Id.* at 1116.
24 (citing *Robbins v. Barnhart*, 466 F.3d 880, 885 (9th Cir. 2005)
25 (reaffirming that an ALJ's decision will be reversed when omitted
26 lay testimony, if credited, leads to a different disability
27 conclusion)). Plaintiff has not made any such showing.

28 In addition, unlike lay testimony, there is no controlling

1 precedent requiring an ALJ to explicitly address written
2 statements, such as the Third Party Function Report in this case,
3 which, as the ALJ noted, was not made under oath. Indeed, it is
4 clear that an ALJ is not required to discuss all evidence in the
5 record in detail. *Howard v. Barnhart*, 341 F.3d 1006, 1012 (9th Cir.
6 2003). Accordingly, Plaintiff's claim is without merit.

7
8 **IV. Conclusion**

9 For the reasons stated above, the decision of the Social
10 Security Commissioner is **AFFIRMED** and the action is **DISMISSED** with
11 prejudice.

12
13 Dated: May 18, 2012



14
15 Marc L. Goldman
16 United States Magistrate Judge