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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
EASTERN DIVISION

OLIVIA HUERTA,	)	Case No. EDCV 11-1868-MLG
	)	
Plaintiff,	)	MEMORANDUM OPINION AND ORDER
	)	
v.	)	
	)	
MICHAEL J. ASTRUE,	)	
Commissioner of the Social	)	
Security Administration,	)	
	)	
Defendant.	)	
_____	)	

Plaintiff Olivia Huerta ("Plaintiff") seeks judicial review of the Commissioner's final decision denying her application for disability insurance benefits ("DIB") pursuant to Title II of the Social Security Act. 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 November 19, 1966. (Administrative Record ("AR") at 698.) She has relevant work experience as a food server, bakery manager, and warehouse worker. (AR at 652.) Plaintiff first filed her application for benefits on June 23,

1 2006, alleging disability beginning July 18, 2005, due to multiple  
2 cervical discopathies, multiple disc protrusions in the lumbar  
3 spine, depression, shoulder pain, knee pain, and anxiety. (AR at  
4 10.) The Social Security Administration denied Plaintiff's  
5 applications initially and upon reconsideration. (AR at 74-85.)  
6 The matter was heard by an Administrative Law Judge (ALJ), who  
7 issued an unfavorable decision on June 16, 2009. Plaintiff sought  
8 review of that decision, and in a Memorandum Opinion and Order  
9 dated March 9, 2011, this Court reversed the decision and remanded  
10 to the Commissioner for further consideration of the opinion of  
11 examining physician Thomas W. Jackson, M.D. *See Huerta v. Astrue*,  
12 No. EDCV 10-1095, 2011 WL 836660 (C.D. Cal. March 9, 2011).

13 A new hearing was held before ALJ Sharilyn Hopson on June 22,  
14 2011. (AR at 636.) Plaintiff, who was represented by counsel,  
15 testified at the hearing, as did a vocational expert ("VE") and a  
16 medical expert. (AR at 636.) The ALJ issued a decision on August  
17 11, 2011, denying Plaintiff's application. (AR at 636-54.) The ALJ  
18 found that Plaintiff suffers from the following severe impairments:  
19 degenerative disc disease of the entire spine, left shoulder  
20 tendinitis, obesity, depression, anxiety. (AR at 639.)  
21 Nevertheless, the ALJ determined that Plaintiff has the residual  
22 functional capacity ("RFC") to perform a limited range of light  
23 work activity.<sup>1</sup> (AR at 640.)

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24  
25 <sup>1</sup> Specifically, the ALJ found that Plaintiff "can lift and/or  
26 carry 20 pounds occasionally and 10 pounds frequently; she can  
27 stand and/or walk for two hours of an eight-hour workday, 15  
28 minutes at a time, use of a cane as needed; she can sit for six  
hours out of an eight-hour workday with regular breaks, and the  
provision to stand and stretch as needed, estimated to require one

1 Plaintiff commenced this action for judicial review on  
2 November 23, 2011. On June 22, 2012, the parties filed a joint  
3 statement of disputed issues ("Joint Stip."). Plaintiff contends  
4 that the ALJ: (1) failed to properly develop and evaluate the  
5 vocational evidence, and (2) improperly assessed her credibility in  
6 considering her subjective complaints.<sup>2</sup> (Joint Stip. at 4.)  
7 Plaintiff seeks reversal and an award of benefits, or  
8 alternatively, remand for further administrative proceedings.  
9 (Joint Stip. at 24-45.) Defendant requests that the ALJ's decision  
10 be affirmed, or, if the Court finds that the ALJ committed  
11 reversible error, that the Court remand for further administrative  
12 proceedings. (Joint Stip. at 25-27.)

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18 to three minutes an[] hour; she can climb stairs, but cannot climb  
19 ladders, work at heights or balance; she can do occasional neck  
20 motion but should avoid extremes of motion, and her head should be  
21 held in a comfortable position the remainder of the time; she can  
22 maintain a fixed head position for 15 to 30 minutes at a time,  
23 occasionally, she cannot perform above shoulder work on the left  
24 and has no limitation on the right side; she is limited to  
25 performing simple repetitive tasks."

26 <sup>2</sup> In Plaintiff's discussion of the second issue, she argues in  
27 passing that the ALJ improperly gave great weight to the testimony  
28 of Samuel Landau, M.D. who testified at the hearing, over the  
opinions of other treating or consulting physicians. (Join Stip. at  
11.) However, this issue is underdeveloped and lacks any legal  
analysis, and therefore the Court need not consider it. *See Indep.*  
*Towers of Washington v. Washington*, 350 F.3d 925, 929 (9th Cir.  
2003)(refusing to address issues not accompanied by legal  
argument).

1 **II. STANDARD OF REVIEW**

2 Under 42 U.S.C. § 405(g), a district court may review the  
3 Commissioner's decision to deny benefits. The Commissioner or ALJ's  
4 decision must be upheld unless "the ALJ's findings are based on  
5 legal error or are not supported by substantial evidence in the  
6 record as a whole." *Tackett v. Apfel*, 180 F.3d 1094, 1097 (9th Cir.  
7 1990); *Parra v. Astrue*, 481 F.3d 742, 746 (9th Cir. 2007).  
8 Substantial evidence means such evidence as a reasonable person  
9 might accept as adequate to support a conclusion. *Richardson v.*  
10 *Perales*, 402 U.S. 389, 401 (1971); *Widmark v. Barnhart*, 454 F.3d  
11 1063, 1066 (9th Cir. 2006). It is more than a scintilla, but less  
12 than a preponderance. *Robbins v. Soc. Sec. Admin.*, 466 F.3d 880,  
13 882 (9th Cir. 2006). To determine whether substantial evidence  
14 supports a finding, the reviewing court "must review the  
15 administrative record as a whole, weighing both the evidence that  
16 supports and the evidence that detracts from the Commissioner's  
17 conclusion." *Reddick v. Chater*, 157 F.3d 715, 720 (9th Cir. 1996).  
18 "If the evidence can support either affirming or reversing the  
19 ALJ's conclusion," the reviewing court "may not substitute its  
20 judgment for that of the ALJ." *Robbins*, 466 F.3d at 882.

21  
22 **III. Analysis**

23 **A. The Vocational Evidence**

24 At the hearing, the VE testified that someone with Plaintiff's  
25 limitations would be able to perform the following three  
26 occupations: (1) electronics worker, which carries the number  
27 726.687-010 in the Dictionary of Occupational Titles ("DOT"); (2)  
28 Receptionist, with a DOT number of 237.367-046; and (3) Parking Lot

1 Booth Attendant, with a DOT number of 915.473-010. (AR at 653, 688-  
2 89.) Based on this testimony, the ALJ concluded that Plaintiff  
3 retained the ability to perform jobs existing in significant  
4 numbers in the national economy. (AR at 653.)

5 Plaintiff contends that the VE did not properly identify any  
6 occupation that Plaintiff would be able to perform. She argues that  
7 the occupation of Electronics Worker requires numerous duties that  
8 are incompatible with the standing and head position limitations  
9 identified in her RFC. (Joint Stip. at 7.) She also argues that the  
10 DOT number provided by the VE for Receptionist actually identifies  
11 a Telephone Quotation Clerk, and that Plaintiff is not able to  
12 perform either the duties of a Telephone Quotation Clerk, DOT  
13 237.367-046, or those of a Receptionist, DOT 237.367-038. (Joint  
14 Stip. 5-6.) Similarly, the DOT number provided by the VE for  
15 Parking Lot Booth Attendant actually identifies a Parking-Lot  
16 Attendant, an occupation that Plaintiff would be unable to perform.  
17 (Join Stip. at 6.) Plaintiff also maintains that it was error for  
18 the ALJ to fail to address the VE's testimony that Plaintiff would  
19 be unable to sustain work activity if she were taking unscheduled  
20 breaks or missing days from of work. (Join Stip. at 8.)

21 Despite Plaintiff's arguments to the contrary, the VE's  
22 testimony that someone with Plaintiff's RFC would be able to  
23 perform the occupation of Electronics Worker does not conflict with  
24 the DOT. The DOT's description of Electronics Worker includes  
25 multiple tasks. (Joint Stip at Ex. D.) While it appears that at  
26 least two of the tasks, those involving moving and unloading parts,  
27 require standing up and moving, there is no indication that many of  
28 the other tasks, such as preparing components and printing, cannot

1 be performed sitting down. As Plaintiff's RFC allows for some  
2 mobility, there is nothing inconsistent on its face between the DOT  
3 description and Plaintiff's RFC. Similarly, it is not clear from  
4 the DOT description that the tasks would be incompatible with  
5 Plaintiff's head and neck limitations. There is no indication that  
6 the tasks cannot be performed while maintaining a comfortable head  
7 position, or that Plaintiff would be unable to switch positions  
8 every 15 to 30 minutes. It was reasonable for the ALJ to rely on  
9 the VE's testimony that someone with Plaintiff's standing and head  
10 and neck limitations could perform the occupation of Electronics  
11 Worker, particularly in light of the absence of any obvious  
12 contradiction with the DOT description. See *Johnson v. Shalala*, 60  
13 F.3d 1428, 1435 -366 (9th Cir. 1995) (finding it proper for the ALJ  
14 to rely on a VE's testimony regarding which available jobs the  
15 claimant could perform). Accordingly, the ALJ's finding that  
16 Plaintiff could perform the occupation of Electronics Worker was  
17 supported by substantial evidence.

18 As Plaintiff points out in the Joint Stipulation, the DOT  
19 number the VE gave for Receptionist actually identifies the  
20 occupation of Telephone Quotation Clerk. (Joint Stip. at 5, Ex. A.)  
21 The occupation of Receptionist, which carries a DOT number of  
22 237.367-038, is a semi-skilled occupation, and therefore  
23 incompatible with Plaintiff's RFC limitation of simple, repetitive  
24 tasks. (Joint Stip. at B.) The DOT describes the occupation of  
25 Telephone Quotation Clerk as involving telephone calls with  
26 customers regarding stock quotations. (Joint Stip. at Ex. A.)  
27 Defendant states in the Joint Stipulation that a Receptionist may  
28 also be known as a Telephone Quotation Clerk. (Joint Stip. at 9.)

1 However, the DOT description for 237.367-046 provides alternative  
2 names for Telephone Quotation Clerk, and none of them are similar  
3 to "Receptionist." (Joint Stip. at Ex. A.) Furthermore, the VE  
4 repeatedly referred to the occupation as that of "Receptionist"  
5 throughout his testimony and made no reference to the specific  
6 duties of a Telephone Quotation Clerk. Therefore, there is nothing  
7 to suggest that the VE was actually contemplating the position of  
8 Telephone Quotation Clerk when referring to DOT 237.367-046. (AR at  
9 688, 692.) Similarly, it appears that the ALJ did not actually  
10 consider whether Plaintiff could perform the duties of a Telephone  
11 Quotation Clerk, but rather simply adopted the VE's conclusion. (AR  
12 at 653.) While Defendant argues that nothing in Plaintiff's RFC  
13 conflicts with the description of a Telephone Quotation Clerk,  
14 there is simply no indication that the ALJ actually considered  
15 whether Plaintiff could perform this occupation. Instead, it  
16 appears that she made her decision based on the mistaken assumption  
17 that DOT 237.367-046 denoted a Receptionist, even going so far as  
18 to explicitly state that "the [VE's] testimony is consistent with  
19 the information contained in the [DOT]." (AR at 653.) Moreover,  
20 even assuming that Plaintiff could perform the duties of a  
21 Telephone Quotation Clerk, it is unclear whether the VE's testimony  
22 on the availability of this occupation in the national and regional  
23 economies is accurate, given the ambiguity regarding which  
24 occupation he was referencing. Accordingly, it was error for the  
25 ALJ based her finding that Plaintiff could perform working existing  
26 in the national economy on the assumption that she could perform a  
27 job called Receptionist with a DOT number of 237.367-046.

28 The VE made a similar error in providing the DOT number for

1 the occupation of Parking Lot Booth Attendant. The number he gave,  
2 815.473-010, refers to a Parking-Lot Attendant. (Joint Stip. at C.)  
3 There does not appear to be any occupation listed in the DOT called  
4 a Parking Lot Booth Attendant. As for Parking-Lot Attendant, the  
5 DOT describes this occupation as involving walking around and  
6 patrolling parking lot areas. (Joint Stip. at Ex C.) These duties  
7 appear incompatible with the standing and walking limitations  
8 contained in Plaintiff's RFC.<sup>3</sup> As with the Telephone Quotation  
9 Clerk, it does not appear that either the VE or the ALJ  
10 specifically contemplated whether Plaintiff could perform the  
11 duties of a Parking-Lot Attendant. (AR at 653, 688.) In the absence  
12 of any indication that the ALJ attempted to resolve these  
13 inconsistencies, it was error for the ALJ to base a finding that  
14 Plaintiff was not disabled on the assumption that she could perform  
15 the duties of a Parking-Lot Attendant.

16 Accordingly, it was erroneous for the ALJ to rely on a finding  
17 that Plaintiff could perform the jobs of Receptionist or Parking  
18 Lot Booth Attendant. Nevertheless, the error is harmless. See  
19 *Ludwig v. Astrue*, 681 F.3d 1047, 1054 (9th Cir. 2012) (harmless  
20 error rule applies to review of administrative decisions regarding  
21 disability); *Tommasetti v. Astrue*, 533 F.3d 1035, 1042-43 (9th Cir.  
22 2008) (same). As discussed above, the ALJ properly found that  
23 Plaintiff is able to perform the occupation of Electronics Worker,  
24 a position which exists in significant numbers in the national  
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27 <sup>3</sup> In the Joint Stip., Defendant does not even attempt to argue  
28 that Plaintiff would be able to perform this occupation. (Joint  
Stip. at 10.)



1 economy.<sup>4</sup> This finding satisfies the final step of the disability  
2 evaluation process, which requires the ALJ to determine whether a  
3 claimant unable to perform her past work is able to do any other  
4 work. See *Gray v. Comm'r*, 365 Fed. App'x 60, 63 (9th Cir. 2010)  
5 (affirming ALJ's finding that Plaintiff could find work because,  
6 "[e]ven assuming, *arguendo*, that two of the three jobs named by the  
7 [VE] . . . were inconsistent with [plaintiff's RFC]," third job was  
8 not and was enough to support ALJ's conclusion). Therefore, the  
9 ALJ's errors in finding that Plaintiff could perform the  
10 occupations of Receptionist and Parking Lot Booth Attendant were  
11 harmless and relief is not warranted. See *Tommasetti*, 533 F.3d at  
12 1042-43; see also *Stout v. Comm'r of Soc. Sec. Admin.*, 454 F.3d  
13 1050, 1055 (9th Cir. 2006) (defining harmless error as such error  
14 that is "irrelevant to the ALJ's ultimate disability conclusion").

15 Finally, it was not error for the ALJ to fail to address the  
16 VE's testimony that if Plaintiff were taking unscheduled breaks or  
17 missing work days, she would be unable to perform the identified  
18 occupations. Plaintiff's RFC, as determined by the ALJ, did not  
19 include the limitation that Plaintiff would be required to take  
20 breaks and miss days. (AR at 640.) It was appropriate for the ALJ  
21 to present the VE with a hypothetical taking into account only the  
22 limitations she identified in her RFC, and to rely on the VE's  
23 answers to that hypothetical. See *Magallanes v. Bowen*, 881 F.2d  
24 747, 756-57 (9th Cir 1989) (it is proper for the ALJ to rely on

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26 <sup>4</sup> The VE testified that there were approximately 4,000  
27 Electronics Worker positions within the region of Los Angeles,  
28 Orange, Riverside, and San Bernardino counties, and 79,000  
positions within the national economy. (AR at 653, 688-89.)

1 VE's response to hypothetical limited to those restrictions  
2 supported by the record). While Plaintiff contends that she would  
3 need these additional breaks and days off, the ALJ properly  
4 determined that Plaintiff's subjective complaints were not fully  
5 credible, as discussed more fully below. Accordingly, it was  
6 appropriate for the ALJ to ignore the VE's testimony regarding the  
7 effect of a need for unscheduled breaks and absences on Plaintiff's  
8 ability to work.

### 9 **B. Plaintiff's Credibility**

10 Plaintiff argues that the ALJ failed to properly evaluate her  
11 credibility regarding her subjective complaints in determining her  
12 RFC. At the hearing, Plaintiff testified that though she works  
13 part-time, she would not be able to work more than three hours per  
14 day because of pain in her legs, back, and hands. (AR at 680.) She  
15 stated that while she is working, she needs to take breaks  
16 approximately once per hour for ten minutes each, and tries to take  
17 a daily nap. (AR at 680-81.) She also testified that she  
18 experiences the following side effects from her prescribed  
19 medication: dizziness, fatigue, dry mouth, and thirst. (AR at 677-  
20 78.)

21 To determine whether a claimant's testimony about subjective  
22 pain or symptoms is credible, an ALJ must engage in a two-step  
23 analysis. *Vasquez v. Astrue*, 572 F.3d 586, 591 (9th Cir. 2009)  
24 (citing *Lingenfelter v. Astrue*, 504 F.3d 1028, 1035-36 (9th Cir.  
25 2007)). First, the ALJ must determine whether the claimant has  
26 presented objective medical evidence of an underlying impairment  
27 which could reasonably be expected to produce the alleged pain or  
28 other symptoms. *Lingenfelter*, 504 F.3d at 1036. "[O]nce the

1 claimant produces objective medical evidence of an underlying  
2 impairment, an adjudicator may not reject a claimant's subjective  
3 complaints based solely on a lack of objective medical evidence to  
4 fully corroborate the alleged severity of pain." *Bunnell v.*  
5 *Sullivan*, 947 F.2d 341, 345 (9th Cir. 1991) (en banc). To the  
6 extent that an individual's claims of functional limitations and  
7 restrictions due to symptoms are reasonably consistent with the  
8 objective medical evidence and other evidence in the case, the  
9 claimant's allegations will be credited. SSR 96-7p, 1996 WL 374186  
10 at \*2 (explaining 20 C.F.R. §§ 404.1529(c)(4), 416.929(c)(4)).<sup>5</sup>

11 Unless there is affirmative evidence showing that the claimant  
12 is malingering, the ALJ must provide specific, clear and convincing  
13 reasons for discrediting a claimant's complaints. *Robbins*, 466 F.3d  
14 at 883. "General findings are insufficient; rather, the ALJ must  
15 identify what testimony is not credible and what evidence  
16 undermines the claimant's complaints." *Reddick v. Chater*, 157 F.3d  
17 715, 722 (9th Cir. 1996) (quoting *Lester v. Chater*, 81 F.3d 821,  
18 834 (9th Cir. 1996)). The ALJ must consider a claimant's work  
19 record, observations of medical providers and third parties with  
20 knowledge of claimant's limitations, aggravating factors,  
21 functional restrictions caused by symptoms, effects of medication,  
22 and the claimant's daily activities. *Smolen v. Chater*, 80 F.3d  
23 1273, 1283-84 & n.8 (9th Cir. 1996). The ALJ may also employ other

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25 <sup>5</sup> "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 ordinary techniques of credibility evaluation. *Id.* (citations  
2 omitted).

3 Here, the ALJ concluded that Plaintiff's "medically  
4 determinable impairments could reasonably be expected to cause some  
5 of the alleged symptoms." (AR at 643.) However, the ALJ rejected as  
6 not credible Plaintiff's statements "concerning the intensity,  
7 persistence and limiting effects of these symptoms" to the extent  
8 they are inconsistent with the ALJ's RFC determination. (AR at  
9 643.) As there was no evidence of malingering, the ALJ was required  
10 to provide clear and convincing reasons for rejecting this  
11 testimony.

12 The ALJ provided several clear and convincing reasons for  
13 rejecting Plaintiff's testimony. First, the ALJ found that  
14 Petitioner's "somewhat normal level of daily activity and  
15 interaction" undermined her allegations that she is unable to  
16 maintain employment. (AR at 642.) Plaintiff's testimony at the  
17 hearing revealed that she performs the following activities on a  
18 daily or regular basis: showering and taking care of her personal  
19 hygiene; going to work; picking up her children from school;  
20 preparing meals; performing household chores, such as mopping and  
21 washing dishes; grocery shopping; watching TV; reading books; and  
22 attending church. Although a claimant "does not need to be 'utterly  
23 incapacitated' in order to be disabled," *Vertigan v. Halter*, 260  
24 F.3d 1044, 1050 (9th Cir. 2001), the ability to perform certain  
25 activities of daily life can support a finding that the claimant's  
26 reports of his or her impairment are not fully credible. See *Bray*  
27 *v. Comm'r of Soc. Sec. Admin.*, 554 F.3d 1219, 1227 (9th Cir. 2009);  
28 *Curry v. Sullivan*, 925 F.2d 1127, 1130 (9th Cir. 1990) (finding

1 that the claimant's ability to "take care of her personal needs,  
2 prepare easy meals, do light housework and shop for some groceries  
3 ... may be seen as inconsistent with the presence of a condition  
4 which would preclude all work activity" (citing *Fair v. Bowen*, 885  
5 F.2d 597, 604 (9th Cir. 1989)).

6 Similarly, the ALJ found that the fact that Plaintiff has  
7 worked following the alleged onset date of her disability indicates  
8 that her daily activities have been somewhat greater than she has  
9 generally reported. (AR at 641.) In weighing a claimant's  
10 credibility, an ALJ may properly consider the claimant's work  
11 record. See *Bray v. Astrue*, 554 F.3d 1219, 1227 (9th Cir. 2009)  
12 (claimant's allegation of debilitating illness belied in part by  
13 fact that "she recently worked as a personal caregiver for two  
14 years, and has sought out other employment since then"); *Thomas v.*  
15 *Barnhart*, 278 F.3d 948, 958-59 (9th Cir. 2002) (inconsistency  
16 between the claimant's testimony and conduct supported rejection of  
17 claimant's credibility). Here, Plaintiff testified that her part-  
18 time job involves three hours of chores that she performs while  
19 standing. (AR at 681.) It was appropriate for the ALJ to consider  
20 that despite Plaintiff's testimony that she suffers from  
21 debilitating pain and other conditions that interfere with her  
22 ability to work, she has been able to maintain this type of  
23 employment.

24 Third, the ALJ found that Plaintiff had made contradictory  
25 statements in the past, which undermined her credibility. (AR at  
26 642-43.) At the previous hearing on October 31, 2008, Plaintiff  
27 testified that she had not done any kind of work for compensation  
28 since she became disabled in 2005. (AR at 46.) However, Plaintiff

1 did earn money for work in 2006 and 2007. (AR at 269, 671-72, 823.)  
2 In addition, there was evidence that Plaintiff had not been  
3 forthright in her earlier worker's compensation case, where she  
4 failed to reveal her involvement in an off-duty motor vehicle  
5 accident pertinent to her case. (AR at 601-05.) It was appropriate  
6 for the ALJ to consider these statements in finding Plaintiff not  
7 credible. *See, e.g., Smolen*, 80 F.3d at 1284 (ALJ may use ordinary  
8 techniques of credibility evaluation, such as considering  
9 inconsistent statements and whether claimant has been candid).

10 Finally, the ALJ found that the Plaintiff "has not generally  
11 received the type of medical treatment one would expect for a  
12 totally disabled individual." (AR at 641.) For example, in 2007 it  
13 appears that her only treatment was seeing a chiropractor every  
14 couple of months. (AR at 563.) She has never undergone surgery, or  
15 even been referred to a specialist for surgery consultation. (AR at  
16 625.) The ALJ also noted that Plaintiff's refusal to follow her  
17 prescription for Paxil, due to its side effects, demonstrated an  
18 unwillingness to improve her condition and could indicate that her  
19 symptoms were not as severe as reported. (AR at 676-77.) An ALJ  
20 may properly rely on "unexplained or inadequately explained failure  
21 to seek treatment or to follow a course of treatment" in assessing  
22 credibility. *See Tommasetti*, 533 F.3d at 1039; *Fair*, 885 at 604  
23 (finding that claimant's allegations of persistent, severe pain and  
24 discomfort belied by "minimal conservative treatment" and failure  
25 to follow doctor's advice).

26 These findings constitute clear and convincing reasons for the  
27 ALJ's rejection of Plaintiff's subjective testimony. *Smolen*, 80  
28 F.3d at 1284. It is the responsibility of the ALJ to determine

1 credibility and resolve conflicts or ambiguities in the evidence,  
2 *Magallanes v. Brown*, 881 F.2d 747, 750 (9th Cir. 1989), and a  
3 reviewing court may not second-guess the ALJ's credibility  
4 determination when it is supported by substantial evidence in the  
5 record, as here. See *Fair*, 885 F.2d at 604. Accordingly, it was  
6 reasonable for the ALJ to rely on the reasons stated above in  
7 finding that Plaintiff's subjective testimony regarding the  
8 severity of her symptoms was not wholly credible.<sup>6</sup>

9  
10 **IV. Conclusion**

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

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15 Dated: July 12, 2012



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17 \_\_\_\_\_  
18 Marc L. Goldman  
19 United States Magistrate Judge  
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26 <sup>6</sup> To the extent there are other reasons in the ALJ's decision  
27 for finding Plaintiff not credible that are not supported by  
28 substantial evidence, any error is harmless given that the ALJ  
provided the above well-supported reasons for not fully crediting  
Plaintiff's statements. See *Tommasetti*, 533 F.3d at 1038.