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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CHRISTOPHER W. AYERS,	)	CASE NO. ED CV 12-00809 RZ
	)	
Plaintiff,	)	
	)	MEMORANDUM OPINION
vs.	)	AND ORDER
	)	
CAROLYN W. COLVIN,	)	
Acting Commissioner of Social Security,	)	
	)	
Defendant.	)	
_____	)	

The Social Security Appeals Council accepted a large number of documents after the Administrative Law Judge made his decision, but stated that those documents did not provide a basis for changing the decision. [AR 2] Those documents, however, contained a questionnaire filled out by a physician who stated that she had treated Plaintiff, and in which she stated her opinion that Plaintiff could not function sufficiently to be employed. This submission, and the Appeals Council’s statement, place this case in a posture similar to that faced in *Taylor v. Commissioner of Social Security*, 659 F.3d 1228 (9th Cir. 2011). Although the Court sympathizes with (and agrees with) the colorful sentiment expressed by the Commissioner in her Memorandum here (“Judges are not like pigs, hunting for truffles buried in briefs,” (quoting from *Greenwood v. F.A.A.*, 28 F.3d 971, 977 (9th Cir. 1994), and *United States v. Dunkel*, 927 F.2d 955, 956 (7th Cir. 1991))), it was the Appeals Council that elected to receive the materials and allow them to be

1 considered. If they are to be considered, then they should be considered fully; the Court  
2 will not imply any findings as to the treating physician's assessment. The Court feels  
3 constrained by *Taylor* to return the matter to the Commissioner to make any such  
4 assessment.

5 Accordingly, the matter is remanded to the Commissioner for further  
6 consideration of the Administrative Law Judge's decision, in light of the materials received  
7 into evidence by the Appeals Council.

8 IT IS SO ORDERED.

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10 DATED: June 10, 2013

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14 RALPH ZAREFSKY  
15 UNITED STATES MAGISTRATE JUDGE  
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