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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ANTHONY E. TADMÁN,
Plaintiff,
v.
CAROLYN W. COLVIN,¹
Acting Commissioner of Social
Security,
Defendant.

NO. CV 12-05298-MAN
MEMORANDUM OPINION
AND ORDER

Plaintiff filed a Complaint on June 22, 2012, seeking review of the denial by the Social Security Commissioner ("Commissioner") of plaintiff's applications for period of disability, disability insurance benefits ("DIB"), and supplemental security income ("SSI"). On August 10, 2012, the parties consented to proceed before the undersigned United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). The parties filed a Joint Stipulation on May 1, 2013, in which: plaintiff seeks an order reversing the Commissioner's decision and remanding this case for payment of benefits or, alternatively, for further administrative proceedings; and the Commissioner requests that her decision be affirmed or, alternatively, remanded for further administrative proceedings.

¹ Carolyn W. Colvin became the Acting Commissioner of the Social Security Administration on February 14, 2013, and is substituted in place of former Commissioner Michael J. Astrue as the defendant in this action. (See Fed. R. Civ. P. 25(d).)

1 **SUMMARY OF ADMINISTRATIVE PROCEEDINGS**

2
3 Plaintiff filed an application for period of disability and DIB on May 22, 2009, and for SSI
4 benefits on May 27, 2009. (Administrative Record ("A.R.") 139-40, 143-47.) Plaintiff alleges an
5 onset date of July 31, 2006, and claims he cannot work because of a "[m]uscular disorder in his
6 back" and "nervous breakdown[s]." (A.R. 191-92.) Plaintiff has past relevant work experience
7 as a plumber. (A.R. 192-93.)
8

9 After the Commissioner denied plaintiff's claims initially and upon reconsideration (A.R. 70-
10 74, 76-79, 81-85, 87-91), plaintiff requested a hearing (A.R. 95-97). On December 15, 2010,
11 plaintiff, who was represented by counsel, appeared and testified at a hearing before
12 Administrative Law Judge John W. Wojciechowski (the "ALJ"). (A.R. 43-65.) Vocational expert
13 Frank Corso also testified. (*Id.*) On January 7, 2011, the ALJ denied plaintiff's claims (A.R. 26-
14 35), and the Appeals Council subsequently denied plaintiff's request for review of the ALJ's
15 decision (A.R. 1-5). That decision is now at issue in this action.
16

17 **SUMMARY OF ADMINISTRATIVE DECISION**

18
19 The ALJ found that plaintiff met the insured status requirements of the Social Security Act
20 through December 31, 2008, and that he has not engaged in substantial gainful activity since the
21 alleged onset date of July 31, 2006. (A.R. 29.) The ALJ also found that plaintiff suffers from
22 degenerative disc disease of the lumbosacral spine. (*Id.*; citing 20 C.F.R. §§ 404.1520(c) and
23 416.920(c).) In so finding, the ALJ discussed the report of Dr. Seung Ha Lim, a consultative
24 examiner, the reports of Dr. Miriam Thomas, and the findings of Dr. Mark Chin. (*Id.*) With
25 respect to plaintiff's mental health, the ALJ found that plaintiff's affective disorder and alcohol
26 dependence do not cause more than minimal limitations in his ability to perform basic mental work
27 activities, citing Dr. Ernest Bagner's findings, medical consultant Dr. R.E. Brooks's report, and
28 social worker Sandra Sanchez's observations. (A.R. 29-30.) Next, the ALJ found that plaintiff

1 does not have an impairment or combination of impairments that meet or medically equal one of
2 the listed impairments in 20 C.F.R. §§ 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925,
3 and 416.926. (A.R. 31.)

4
5 After reviewing the record, the ALJ determined that plaintiff has the residual functional
6 capacity ("RFC") to perform light exertional work as defined in 20 C.F.R. §§ 404.1567(b) and
7 416.967(b). (A.R. 31.) The ALJ found that plaintiff can: "stand/walk for six hours in an eight-
8 hour workday, sit for six hours in an eight-hour workday, frequently balance, stoop, kneel, crouch,
9 and crawl, frequently climb ramps and stairs, and occasionally climb ladders, ropes, and scaffolds."
10 (*Id.*) In determining plaintiff's RFC, the ALJ summarized the medical record. (A.R. 32-33.) He
11 also found plaintiff to be less than fully credible, explaining:

12
13 [Plaintiff]'s credibility is weakened by inconsistencies between [plaintiff]'s
14 assertion of chronic debilitating body pain and the limited medical treatment he has
15 undergone. It is reasonable to assume that if [plaintiff] had a debilitating condition
16 or combination of conditions, he would have undergone more frequent medical
17 treatment.

18
19 [Plaintiff]'s credibility is also weakened by inconsistencies between [plaintiff]'s
20 assertions of chronic debilitating body pain and the August 2009 assessment of
21 consultative examiner Dr. Seung Ha Lim, who reviewed the medical records,
22 examined [plaintiff], and reported that [plaintiff] exhibits normal gait, good motor
23 strength of the extremities, normal range of motion of the joints of the upper and
24 lower extremities, and normal range of motion of the back without any signs of
25 radiculopathy.

26
27 [Plaintiff]'s credibility is further weakened by his statements that he performs
28 household chores, such as cooking, cleaning, making the bed, washing dishes,

1 doing the laundry, and going grocery shopping twice weekly. It is reasonable to
2 assume that if [plaintiff] had a debilitating condition or combination of conditions,
3 he would lack the stamina to perform these multiple activities of daily living.

4
5 (A.R. 32; internal citations omitted.)
6

7 The ALJ determined that given the his RFC determination, plaintiff was unable to perform
8 his past relevant work as a plumber, and that considering his age,² education,³ work experience,
9 and RFC, jobs existed in significant numbers in the national economy that he could perform. (A.R.
10 33-34.) Accordingly, the ALJ concluded that plaintiff has not been under a disability from July 31,
11 2006, through the date of the decision, January 7, 2011. (A.R. 35.)
12

13 **STANDARD OF REVIEW**

14
15 Under 42 U.S.C. § 405(g), this Court reviews the Commissioner's decision to determine
16 whether it is free from legal error and supported by substantial evidence in the record as a whole.
17 Orn v. Astrue, 495 F.3d 625, 630 (9th Cir. 2007). Substantial evidence is "such relevant evidence
18 as a reasonable mind might accept as adequate to support a conclusion." *Id.* (citation omitted).
19 The "evidence must be more than a mere scintilla but not necessarily a preponderance." Connett
20 v. Barnhart, 340 F.3d 871, 873 (9th Cir. 2003). While inferences from the record can constitute
21 substantial evidence, only those "reasonably drawn from the record" will suffice. Widmark v.
22 Barnhart, 454 F.3d 1063, 1066 (9th Cir. 2006)(citation omitted).
23

24 Although this Court cannot substitute its discretion for that of the Commissioner, the Court
25

26 ² On the alleged onset date, plaintiff was 39 years old, which is defined as a younger
27 individual. (A.R. 33; citing 20 C.F.R. §§ 404.1563 and 416.963.)

28 ³ The ALJ found that plaintiff has a limited education and is able to communicate in English.
(A.R. 34; citing 20 C.F.R. §§ 404.1564 and 416.964.)

1 nonetheless must review the record as a whole, "weighing both the evidence that supports and
2 the evidence that detracts from the [Commissioner's] conclusion." Desrosiers v. Sec'y of Health
3 and Human Servs., 846 F.2d 573, 576 (9th Cir. 1988); *see also* Jones v. Heckler, 760 F.2d 993,
4 995 (9th Cir. 1985). "The ALJ is responsible for determining credibility, resolving conflicts in
5 medical testimony, and for resolving ambiguities." Andrews v. Shalala, 53 F.3d 1035, 1039-40
6 (9th Cir. 1995).

7
8 The Court will uphold the Commissioner's decision when the evidence is susceptible to
9 more than one rational interpretation. Burch v. Barnhart, 400 F.3d 676, 679 (9th Cir. 2005).
10 However, the Court may review only the reasons stated by the ALJ in his decision "and may not
11 affirm the ALJ on a ground upon which he did not rely." Orn, 495 F.3d at 630; *see also* Connett,
12 340 F.3d at 874. The Court will not reverse the Commissioner's decision if it is based on harmless
13 error, which exists only when it is "clear from the record that an ALJ's error was 'inconsequential
14 to the ultimate nondisability determination.'" Robbins v. Soc. Sec. Admin., 466 F.3d 880, 885 (9th
15 Cir. 2006)(quoting Stout v. Comm'r, 454 F.3d 1050, 1055-56 (9th Cir. 2006)); *see also* Burch, 400
16 F.3d at 679.

17 18 **DISCUSSION**

19
20 Plaintiff claims that the ALJ: (1) committed legal error by failing to consider the opinions
21 of plaintiff's treating doctors from the San Fernando Health Center; and (2) improperly discounted
22 plaintiff's pain testimony and credibility. (Joint Stipulation ("Joint Stip.") at 5-7, 12-23, 26.)

23 24 **I. The ALJ Failed To Consider Properly The Opinion Of Plaintiff's** 25 **Treating Physician.**

26
27 An ALJ is obligated to take into account all medical opinions of record. 20 C.F.R. §§
28 404.1507(d), 416.927(d). It is the responsibility of the ALJ to resolve conflicts in medical

1 testimony and analyze evidence. Magallanes v. Bowen, 881 F.2d 747, 750 (9th Cir. 1989). In the
2 hierarchy of physician opinions considered in assessing a social security claim, “[g]enerally, a
3 treating physician’s opinion carries more weight than an examining physician’s, and an examining
4 physician’s opinion carries more weight than a reviewing physician’s.” Holohan v. Massanari, 246
5 F.3d 1195, 1202 (9th Cir. 2001); *see also* 20 C.F.R. §§ 404.1527(d), 416.927(d).

6
7 The opinions of treating physicians are entitled to the greatest weight, because the treating
8 physician is hired to cure and has a better opportunity to know and observe the claimant.
9 Magallanes, 881 F.2d at 751. When a treating or examining physician’s opinion is not contradicted
10 by another physician, it may be rejected only for “clear and convincing” reasons. Lester v. Chater,
11 81 F.3d 821, 830 (9th Cir. 1995). When contradicted by another doctor, a treating or examining
12 physician’s opinion may only be rejected if the ALJ provides “specific and legitimate” reasons
13 supported by substantial evidence in the record. *Id.*; *see also* Ryan v. Comm’r of Soc. Sec., 528
14 F.3d 1194, 1198 (9th Cir. 2008); Orn, 495 F.3d at 632.

15
16 “The opinion of a nonexamining physician cannot by itself constitute substantial evidence
17 that justifies the rejection of the opinion of . . . a treating physician.” Lester, 81 F.3d at 831; *see*
18 Pitzer v. Sullivan, 908 F.2d 502, 506 n.4 (9th Cir. 1990)(finding that the nonexamining physician’s
19 opinion “with nothing more” did not constitute substantial evidence). However, “[w]here the
20 opinion of the claimant’s treating physician is contradicted, and the opinion of a nontreating
21 source is based on independent clinical findings that differ from those of the treating physician,
22 the opinion of the nontreating source may itself be substantial evidence.” Andrews, 53 F.3d at
23 1041. Independent clinical findings include “(1) diagnoses that differ from those offered by
24 another physician and that are supported by substantial evidence, or (2) findings based on
25 objective medical tests that the treating physician has not herself considered.” Orn, 495 F.3d at
26 632 (internal citations omitted).

27
28 Plaintiff argues that the ALJ failed to properly consider Dr. Chin’s opinions, because

1 although the ALJ discussed Dr. Chin's findings, the opinion does not set forth any bases for
2 rejecting them.⁴

3
4 Plaintiff summarizes Dr. Chin's opinions as follows:

5
6 Dr. Chin diagnosed chronic back pain, foot pain[,] and morbid obesity with
7 symptoms of fatigue, left foot pain, back pain. Dr. Chin stated that [plaintiff] was
8 not a malingerer. Dr. Chin opined that [plaintiff] could sit up to 6 hours in an 8 hour
9 workday and stand/walk 2 hours with lifting and carrying described as 20 pounds
10 occasionally and 10 pounds frequently. Dr. Chin described [plaintiff] as having
11 occasional deficits in maintaining attention and concentration as a result of his
12 severe impairments.

13
14 (Joint Stip. at 6.)

15
16 In determining plaintiff's RFC, the ALJ reviewed the medical evidence of record, including
17 the August 2009 assessment by Dr. Lim and the October 2010 assessment by Dr. Chin. The ALJ
18 noted that while Dr. Lim found that plaintiff had no "impairment-related physical limitations," Dr.
19 Chin found that: "[plaintiff] can lift/carry 20 pounds occasionally and 10 pounds frequently, can
20 sit for six hours in an eight-hour workday, can occasionally twist, stoop, bend, and crouch, can
21 occasionally climb ramps and stairs, and lack limitations for repetitive reaching, handling, and
22 fingering." (A.R. 33.) "Viewing the evidence in the light most favorable to [plaintiff]," the ALJ
23 determined, as noted *supra*, that plaintiff has the ability to perform: "light exertional work with
24 the capacit[y] to stand/walk for six hours in an eight-hour workday, sit for six hours in an eight-
25 hour workday, frequently balance, stoop, kneel, crouch, and crawl, frequently climb ramps and
26 stairs and occasionally climb ladders, ropes, and scaffolds." (A.R. 33.)

27
28 ⁴ Although plaintiff appears to argue that multiple treating doctors' opinions were improperly
rejected, he discusses only the alleged failure to consider Dr. Chin's opinions. (Joint Stip. at 6-7.)
Therefore, the Court will limit its analysis to the ALJ's consideration of Dr. Chin's opinions.

1 Notwithstanding the ALJ's statement that he had viewed the evidence in the light most
2 favorable to plaintiff, the ALJ assessed a *less* restrictive RFC for plaintiff than that assessed by Dr.
3 Chin. For example, the ALJ found plaintiff capable of, *inter alia*, standing and walking for six hours
4 in an eight-hour workday and frequently stooping, crouching, and climbing stairs (A.R. 31); Dr.
5 Chin found plaintiff capable of standing/walking for only two hours in an eight-hour workday and
6 only occasionally stooping, crouching, and climbing stairs (A.R. 388). Additionally, the ALJ's RFC
7 assessment for plaintiff does not incorporate Dr. Chin's opinion that: plaintiff should be limited
8 to occasional twisting, stooping, and bending; plaintiff's pain or other symptoms would
9 occasionally interfere with his attention and concentration necessary to sustain simple, repetitive
10 tasks; and plaintiff would be absent one day per month as a result of his medical impairments
11 and/or treatment. (A.R. 387-89.) The ALJ's failure to either incorporate Dr. Chin's RFC
12 assessment or to provide specific and legitimate reasons for apparently rejecting significant
13 portions of that treating physician's assessment constitutes reversible error.

14 15 **II. The ALJ Failed To Consider Plaintiff's Credibility Properly.**

16

17 Once a disability claimant produces objective medical evidence of an underlying impairment
18 that is reasonably likely to be the source of claimant's subjective symptom(s), all subjective
19 testimony as to the severity of the symptoms must be considered. Moisa v. Barnhart, 367 F.3d
20 882, 885 (9th Cir. 2004); Bunnell v. Sullivan, 947 F.2d 341, 345 (9th Cir. 1991); *see also* 20 C.F.R.
21 §§ 404.1529(a), 416.929(a) (explaining how pain and other symptoms are evaluated). "[U]nless
22 an ALJ makes a finding of malingering based on affirmative evidence thereof, he or she may only
23 find an applicant not credible by making specific findings as to credibility and stating clear and
24 convincing reasons for each." Robbins, 466 F.3d at 883. The factors to consider in weighing a
25 claimant's credibility include: (1) the claimant's reputation for truthfulness; (2) inconsistencies
26 either in the claimant's testimony or between the claimant's testimony and his conduct; (3) the
27 claimant's daily activities; (4) the claimant's work record; and (5) testimony from physicians and
28 third parties concerning the nature, severity, and effect of the symptoms of which the claimant

1 complains. See Thomas v. Barnhart, 278 F.3d 947, 958–59 (9th Cir. 2002); see also 20 C.F.R.
2 §§ 404.1529(c), 416.929(c).

3
4 An ALJ may not rely on a plaintiff’s daily activities to support an adverse credibility
5 determination when those activities do not affect the claimant’s ability to perform appropriate
6 work activities on an ongoing and daily basis. Gonzalez v. Sullivan, 91 F.2d 1197, 1201 (9th Cir.
7 1990). As the Ninth Circuit noted in Lester, the ALJ must evaluate claimant’s “ability to work on
8 a *sustained* basis.” 81 F.3d at 833 (emphasis in original; citation omitted). A claimant need not
9 be “utterly incapacitated to be eligible for benefits . . . and many home activities are not easily
10 transferable to what may be the more grueling environment of the workplace, where it might be
11 impossible to periodically rest or take medication.” Fair v. Bowen, 885 F.2d 597, 603 (9th Cir.
12 1989)(internal citations omitted).

13
14 Here, the ALJ found that, “[a]fter careful consideration of the evidence, . . . [plaintiff]’s
15 medically determinable impairments could reasonably be expected to cause the alleged
16 symptoms.” (A.R. 32.) Further, the ALJ cited no evidence of malingering by plaintiff.
17 Nonetheless, the ALJ concluded that plaintiff’s “statements concerning the intensity, persistence
18 and limiting effects of [his] symptoms are not credible” to the extent they varied from the ALJ’s
19 own RFC assessment. (Id.) Accordingly, the ALJ’s reasons for finding that plaintiff was not
20 credible with respect to his subjective symptom and pain testimony must be “clear and
21 convincing.”

22
23 Plaintiff testified at the December 15, 2010 hearing that pain in his chest and back
24 prevented him from working. (A.R. 49.) Plaintiff indicated that he walks to the market, does his
25 own shopping, and cooks his own meals, but also lives with pain all day every day. (A.R. 56.)

26
27 On a daily activities questionnaire dated May 13, 2009, plaintiff reported that, on an
28 average day, he cleaned, cooked, ate, rested, and handled legal obligations. (A.R. 177.) In

1 response to a question asking what difficulties he had caring for his own personal needs and
2 whether he required any type of assistance, he simply answered, "No." (*Id.*) Plaintiff indicated
3 that he does all of his own shopping and chores and goes out once or twice a day. (A.R. 178-79.)
4 Plaintiff also reported going to church once a week. (A.R. 180.) In the same report, plaintiff
5 noted bad headaches and constant pain. (A.R. 181.)
6

7 Plaintiff continued to report extreme and constant pain and muscle spasms on his exertion
8 questionnaire dated July 9, 2009. (A.R. 202.) On the same report, plaintiff indicated he does
9 minimal light housework and sleeps for eight hours a night. (A.R. 203.) He also indicated that
10 he can go up one flight of stairs, lift shopping bags and small suitcases up to twenty to thirty
11 pounds, and carry ten to twenty pounds of groceries twice a week. (A.R. 204.) Plaintiff also
12 drives, makes his own bed, washes his clothes, and does the dishes. (*Id.*)
13

14 The ALJ discounted plaintiff's subjective symptom testimony, because it was inconsistent
15 with: (1) the objective medical evidence -- *to wit*, the August 2009 assessment of Dr. Lim, who
16 reported that plaintiff exhibited normal gait, good motor strength, normal range of motion, and
17 no radiculopathy; (2) plaintiff's limited medical treatment; and (3) plaintiff's daily activities. (A.R.
18 32.)
19

20 With respect to the ALJ's first ground, even assuming *arguendo* that the medical evidence
21 -- *to wit*, Dr. Lim's August 2009 assessment -- did not corroborate the degree of plaintiff's
22 allegedly disabling limitations, this factor cannot form the "sole basis" for discounting plaintiff's
23 subjective symptom testimony. Burch, 400 F.3d at 681 ; see Bunnell, 947 F.2d at 347 (noting that
24 "[i]f an adjudicator could reject a claim of disability simply because a claimant fails to produce
25 medical evidence supporting the severity of the pain, there would be no reason for an adjudicator
26 to consider anything other than medical findings"). Accordingly, because the ALJ's first ground
27 cannot, by itself, constitute a clear and convincing reason for discrediting plaintiff's testimony, the
28 ALJ's credibility determination rises or falls with the ALJ's other grounds for discrediting plaintiff.

1 The ALJ's second ground for discounting plaintiff's credibility -- *to wit*, that plaintiff's
2 testimony is inconsistent with his limited medical treatment -- is not clear and convincing. While
3 it is true that conservative or infrequent treatment can be used by an ALJ to refute allegations of
4 disabling pain, "[it] is not a proper basis for rejecting the claimant's credibility where the claimant
5 has a good reason for not seeking more aggressive treatment." Carmickle v. Comm'r of SSA, 533
6 F.3d 1155, 1162 (9th Cir. 2008). At the administrative hearing, plaintiff testified that he had not
7 pursued more aggressive treatments, such as facet block injections for his back pain, because his
8 doctor told him that "in [his] case [they] wouldn't be helpful." (A.R. 53.) Plaintiff further testified
9 that, although his doctor wanted to prescribe him stronger pain medications, *i.e.*, Soma and
10 Oxycontin, plaintiff's insurance would not cover those medications. (A.R. 53.) Thus, because
11 plaintiff provided good reasons for not seeking more aggressive treatments, plaintiff's minimal
12 treatment regime is not a proper basis for discounting his credibility.

13
14 Finally, the ALJ reasoned that plaintiff's daily activities seem inconsistent with his pain
15 testimony. In support of his reasoning, the ALJ states, "[i]t is reasonable to assume that if
16 [plaintiff] had a debilitating condition or combination of conditions, he would lack the stamina to
17 perform these multiple activities of daily living." (A.R. 32.) Significantly, however, the ALJ fails
18 to explain *how* plaintiff's minimal activities -- the majority of which are performed for short periods
19 of time⁵ while plaintiff is in pain -- are contrary to his allegedly disabling limitations. Further, the
20 ALJ does not explain how plaintiff's ability to perform the above-noted activities translates into the
21 ability to perform full-time work. See Vertigan v. Halter, 260 F.3d 1044, 1050 (9th Cir.
22 2001))(noting that the "mere fact that a plaintiff has carried on certain daily activities, such as
23 grocery shopping, driving a car, or limited walking for exercise, does not in any way detract from
24 his credibility as to her overall disability"). "The Social Security Act does not require that claimants
25 be utterly incapacitated to be eligible for benefits, and many home activities may not be easily
26 transferable to a work environment where it might be impossible to rest periodically or take

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28 ⁵ See, *e.g.*, A.R. 204 (plaintiff reported that it takes him 5 minutes to make his bed and 10
minutes to wash his dishes).

1 medication.” Smolen v. Chater, 80 F.3d 1273, 1283 n.7 (9th Cir. 1996).

2
3 Accordingly, for the aforementioned reasons, the ALJ failed to provide clear and convincing
4 reasons, as required, for finding plaintiff to be not credible. This constitutes error.

5
6 **III. Remand Is Required.**

7
8 The decision whether to remand for further proceedings or order an immediate award of
9 benefits is within the district court’s discretion. Harman v. Apfel, 211 F.3d 1172, 1175-78 (th Cir.
10 2000). Where no useful purpose would be served by further administrative proceedings, or where
11 the record has been fully developed, it is appropriate to exercise this discretion to direct an
12 immediate award of benefits. *Id.* at 1179 (“[T]he decision of whether to remand for further
13 proceedings turns upon the likely utility of such proceedings.”). However, where there are
14 outstanding issues that must be resolved before a determination of disability can be made, and
15 it is not clear from the record that the ALJ would be required to find the claimant disabled if all
16 the evidence were properly evaluated, remand is appropriate. *Id.* at 1179-81.

17
18 Remand is the appropriate remedy to allow the ALJ the opportunity to remedy the above-
19 mentioned deficiencies and errors. *See, e.g., Benecke v. Barnhart*, 379 F.3d 587, 593 (9th Cir.
20 2004)(remand for further proceedings is appropriate if enhancement of the record would be
21 useful). On remand, the ALJ must correct the above-mentioned deficiencies and errors.

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1 **CONCLUSION**

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3 Accordingly, for the reasons stated above, IT IS ORDERED that the decision of the

4 Commissioner is REVERSED, and this case is REMANDED for further proceedings consistent with

5 this Memorandum Opinion and Order.

6

7 IT IS FURTHER ORDERED that the Clerk of the Court shall serve copies of this

8 Memorandum Opinion and Order and the Judgment on counsel for plaintiff and for defendant.

9

10 LET JUDGMENT BE ENTERED ACCORDINGLY.

11

12 DATED: October 8, 2013

13 *Margaret A. Nagle*

14 _____

15 MARGARET A. NAGLE

16 UNITED STATES MAGISTRATE JUDGE

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