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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MICHAEL GUY DAVISON,)	CASE NO. ED CV 13-02175 RZ
)	
Plaintiff,)	
)	MEMORANDUM OPINION
vs.)	AND ORDER
)	
CAROLYN W. COLVIN, Acting)	
Commissioner of Social Security,)	
)	
Defendant.)	
_____)	

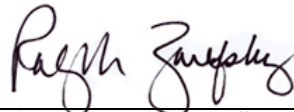
While lifting a heavy tub of oil during the graveyard shift at a Taco Bell, Plaintiff strained his back and developed an inguinal hernia. The hernia was surgically repaired. Plaintiff claims that the back sprain disables him. The Administrative Law Judge found otherwise, and Plaintiff asserts that the Administrative Law Judge was wrong because he did not accept the opinion of Plaintiff’s treating physician. The Court agrees with the Commissioner.

It is of course true that the Commissioner owes deference to the opinions of a treating physician, *Auckland v. Massanari*, 257 F.3d 1033, 1036 (9th Cir. 2001), and also true here that the Administrative Law Judge was wrong in stating that the treating physician was not a specialist and that his opinion was inconsistent with Plaintiff’s activities of daily living, which were only sedentary activities. [AR 20-21] However, the Administrative Law Judge was within his discretion in concluding that the opinion was not

1 supported by the findings of the treating physician himself, especially given that the
2 treating physician's opinion was an initial opinion not long after the incident, and included
3 a treatment plan of physical therapy and continued work at a modified level. [AR 418-19]
4 Plaintiff recovered from his hernia, and substantial evidence elsewhere in the record clearly
5 supported the conclusion that Plaintiff could work [AR 20], performing other work in the
6 economy.

7 The decision of the Commissioner is affirmed.

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9 DATED: September 16, 2014

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11 _____
12 RALPH ZAREFSKY
13 UNITED STATES MAGISTRATE JUDGE
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