Armand George Skol, SBN 058974 William A. Lapcevic, SBN 238893 2 ARATA, SWINGLE, SODHI & VAN EGMOND A Professional Law Corporation 912 11<sup>th</sup> Street, First Floor (95354) 4 Post Office Box 3287 Modesto, California 95353 5 Telephone: (209) 522-2211 Facsimile: (209) 522-2980 6 7 Attorneys for Defendant Foster Poultry Farms, A California Corporation 8 9 THE UNITED STATES DISTRICT COURT 10 FOR THE EASTERN DISTRICT OF CALIFORNIA 11 FRESNO DIVISION 12 13 Case No.: 1:09-CV-01878-OWW-GSA MARIA ESCRIBA. 14 Plaintiff, ORDER ON CROSS-MOTIONS FOR SUMMARY JUDGMENT/ADJUDICATION 15 VS. 16 FOSTER POULTRY FARMS, 17 A CALIFORNIA CORPORATION, 18 Defendant. 19 20 Order granting Plaintiff's motion for summary judgment in part and denying 21 Plaintiff's motion for summary judgment in part; 22 Order granting Defendant's motion for summary judgment in part and denying 23 Defendant's motion for summary judgment in part. 24 This matter is before the Court on Plaintiff's Motion for Summary Judgment 25 (docket #40). This matter is also before the Court on Defendant's cross-Motion for 26 Summary Judgment (docket #32). The Court has reviewed the moving papers, 27 opposition papers, reply briefs and has heard oral argument on the motions from the 28 parties on May 13, 2011.

ORDER ON CROSS-MOTIONS FOR SUMMARY JUDGMENT/ADJUDICATION - 1

As explained in the Court's Orders on Cross-Motions for Summary Judgment/Summary Adjudication (docket #98), the Court Orders the Following:

- 1. The Court rules upon Defendant's evidentiary objection to Plaintiff's medical evidence and finds that such evidence shall be admitted under the residual exception to the hearsay rule (FRE 807).
- 2. Plaintiff's motion for partial summary judgment on the issue of serious health condition is GRANTED, and the Court finds and summarily adjudicates that this element of Plaintiff's claims is proven.
- 3. Plaintiff and Defendant FPF's motions on the first and third claims regarding interference for mischaracterizing Plaintiff's leave in violation the FMLA and CFRA are DENIED.
- 4. Plaintiff and Defendant's motions on the second and fourth claims regarding interference for termination of Plaintiff in violation of the FMLA and CFRA are DENIED.
- 5. Defendant's motion regarding the fifth claim for the failure to prevent discrimination under the FEHA is GRANTED.
- 6. Defendant's motion regarding the sixth claim for wrongful termination in violation of public policy is DENIED.
- 7. Plaintiff is the prevailing party regarding the failure to promptly pay wages owed.
- 8. Defendant's motions regarding punitive damages for the claims arising under State law are GRANTED.
- 9. Defendant's motion regarding penalty damages for failure to promptly pay wages owed is DENIED.

ORDER ON CROSS-MOTIONS FOR SUMMARY JUDGMENT/ADJUDICATION - 2

1	10. Plaintiff's motion regarding the affirmative defense of unclean hand	si st
2	DENIED.	
3 4	11. Plaintiff's motion regarding the affirmative defenses of waiver, esto	ppel,
5	laches, acquiescence, and/or consent is GRANTED.	
6	12. Plaintiff's motion regarding the affirmative defense of good faith is	
7	DENIED.	
8	13. Plaintiff's motion regarding the affirmative defense of mitigation of	
9	damages is DENIED.	
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11	IT IS SO ORDERED.	
13	THIS SO CRIDERED.	
14	Dated: June 14, 2011 /s/ OLIVER W. WANGER	
15	United States District Court Judge	
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ORDER ON CROSS-MOTIONS FOR SUMMARY JUDGMENT/ADJUDICATION - 3