



**Issue Date: 09 November 2018**

CASE NOs.: 2018-TAE-00012  
2018-TAE-00013

*In the Matter of:*

SAKUMA BROTHERS FARMS, INC. and  
WASHINGTON FARM LABOR ASS'N,  
Respondents.

ORDER BIFURCATING CASES *NUNC PRO TUNC*

The above-captioned cases were filed by the Administrator as a consolidated case by Order of Reference dated February 15, 2018. Each Respondent was issued a separate case number, but the cases were left consolidated at docketing by this Office. While Respondent Washington Farm Labor Association (WAFLA) expressed its intention in the parties' Joint Pre-Trial Plan to move to bifurcate the two cases, WAFLA never did so.

The Administrator and Respondent Sakuma Brothers Farms later reached a settlement, and on October 4, 2018, filed proposed Consent Findings. WAFLA was not a party to the settlement and proposed Consent Findings. In turn, Sakuma took no part in the hearing in this matter, which I held in Seattle on October 15-16, 2018.

In effect, these cases were bifurcated by consent when the Administrator and Sakuma filed proposed Consent Findings, and when Sakuma took no part in the hearing. The doctrine of *nunc pro tunc*, literally "now for then," authorizes a court, "after discovering that its records do not accurately reflect its actions, [to] correct[] the records to show what actually happened." *Sherman v. Harbin (In re Harbin)*, 486 F.3d 510, 515 n.4 (9th Cir. 2007) (collecting cases).

Under the OALJ procedural rules, "[f]or convenience, to avoid prejudice, or to expedite and economize, the judge may order a separate hearing of one or more issues." 29 C.F.R. § 18.43(b). In order to enter the proposed Consent Findings between the Administrator and Sakuma and accurately reflect the parties in the remaining dispute, I ORDER that *In re Sakuma Brothers Farms, Inc.*, No. 2018-TAE-00012, and *In re Washington Farm Labor Ass'n*, No. 2018-TAE-00013, are bifurcated *nunc pro tunc* to October 4, 2018. The caption shall be amended on all further filings to so reflect.

EVAN H. NORDBY  
Administrative Law Judge