

Overview of the DOL Complaint Adjudication Process

- OSHA complaint: First file a written complaint at your regional OSHA office.
- OSHA will investigate your complaint, possibly attempt to settle it, and if not, file a written decision either dismissing the complaint or granting relief, which can include reinstatement, back pay, and other relief.
- ALJ Hearing: Under all the environmental statutes except the Asbestos Hazard Emergency Response Act, any party who is dissatisfied with OSHA's ruling may ask for a trial-type hearing before an Administrative Law Judge (ALJ). This hearing is *de novo*, meaning that the OSHA finding carries no weight and there is full consideration of all evidence. You can get materials from OSHA's investigation under FOIA for use at the hearing stage.
- Settlement Judge: The Office of Administrative Law Judges has a voluntary settlement judge program (i.e. both sides must agree to participate) where a judge who is not hearing the case works with the parties to attempt settlement.
- Relief available from ALJ: includes reinstatement, back pay, and compensatory damages for pain and suffering, damage to reputation, etc. Damage awards are generally modest and less than jury awards. Relief can also include attorneys' fees, and actions such as removing derogatory information from personnel files.
- Of the environmental statutes, only Safe Drinking Water Act and Toxic Substances Control Act allow punitive damages.
- Appeal to ARB: The ALJ's decision may be appealed by either side to the DOL's Administrative Review Board (ARB).
- Appeal to Court: The decision of the ARB may be appealed to the U.S. Court of Appeals for the regional circuit in which the claim arose (the place of employment). From there a case could go to the Supreme Court of the U.S.