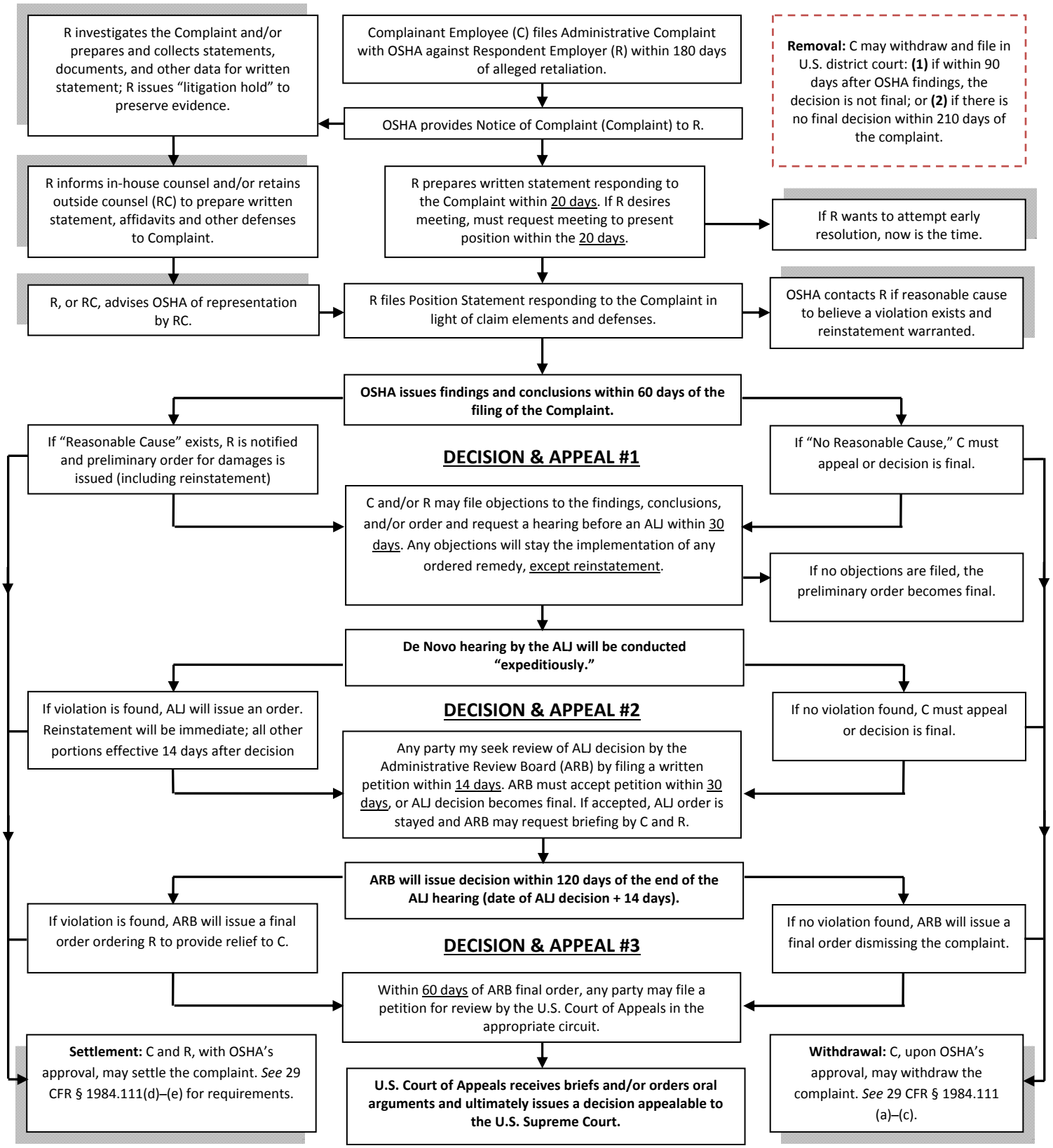
Complainant Employee (C) files Administrative Complaint with OSHA against Respondent Employer (R) within 180 days of alleged retaliation.
OSHA provides Notice of Complaint (Complaint) to R.
R investigates the Complaint and/or prepares and collects statements, documents, and other data for written statement; R issues "litigation hold" to preserve evidence.
Removal: C may withdraw and file in U.S. district court: (1) if within 90 days after OSHA findings, the decision is not final; or (2) if there is no final decision within 210 days of the complaint.
R informs in-house counsel and/or retains outside counsel (RC) to prepare written statement, affidavits and other defenses to Complaint.
R prepares written statement responding to the Complaint within 20 days. If R desires meeting, must request meeting to present position within the 20 days.
If R wants to attempt early resolution, now is the time.
R, or RC, advises OSHA of representation by RC.
R files Position Statement responding to the Complaint in light of claim elements and defenses.
OSHA contacts R if reasonable cause to believe a violation exists and reinstatement warranted.
OSHA issues findings and conclusions within 60 days of the filing of the Complaint.
If "Reasonable Cause" exists, R is notified and preliminary order for damages is issued (including reinstatement)
DECISION & APPEAL #1
If "No Reasonable Cause," C must appeal or decision is final.
C and/or R may file objections to the findings, conclusions, and/or order and request a hearing before an ALJ within 30 days. Any objections will stay the implementation of any ordered remedy, except reinstatement.
If no objections are filed, the preliminary order becomes final.
De Novo hearing by the ALJ will be conducted "expeditiously."
If violation is found, ALJ will issue an order. Reinstatement will be immediate; all other portions effective 14 days after decision
DECISION & APPEAL #2
If no violation found, C must appeal or decision is final.
Any party my seek review of ALJ decision by the Administrative Review Board (ARB) by filing a written petition within 14 days. ARB must accept petition within 30 days, or ALJ decision becomes final. If accepted, ALJ order is stayed and ARB may request briefing by C and R.
ARB will issue decision within 120 days of the end of the ALJ hearing (date of ALJ decision + 14 days).
If violation is found, ARB will issue a final order ordering R to provide relief to C.
DECISION & APPEAL #3
If no violation found, ARB will issue a final order dismissing the complaint.
Within 60 days of ARB final order, any party may file a petition for review by the U.S. Court of Appeals in the appropriate circuit.
Settlement: C and R, with OSHA's approval, may settle the complaint. See 29 CFR § 1984.111(d)–(e) for requirements.
U.S. Court of Appeals receives briefs and/or orders oral arguments and ultimately issues a decision appealable to the U.S. Supreme Court.
Withdrawal: C, upon OSHA's approval, may withdraw the complaint. See 29 CFR § 1984.111 (a)–(c).