

## SMARTCITE REPORT

for 12-20164 2012-08-25 Appellants opening brief on appeal.pdf

- 3 CITED CASES WITH **NEGATIVE HISTORY OR TREATMENT**
- 6 CITED CASES WITH **CAUTIONARY TREATMENT**
- 2 CITED CASES **THAT RELY ON A CASE WITH NEGATIVE HISTORY OR TREATMENT**

### CITED IN BRIEF

[Cohens v. Virginia](#)  
19 U.S. 264 (1821)

### HOSTILE SUBSEQUENT AUTHORITY

■ OVERRULED BY  
[Kendall v. the United States](#)  
37 U.S. 524 (1838)

■ CITED IN CONTRADICTION BY  
[Virginia Office for Protection v. Stewart](#)  
563 U.S. 247 (2011)

■ CITED IN CONTRADICTION BY  
[Atlantic City Electric Co. v. General Electric Co.](#)  
207 F. Supp. 613 (S.D.N.Y. 1962)

[Erie R. Co. v. Tompkins](#)  
304 U.S. 64 (1938)

■ SUPERSEDED BY STATUTE AS NOTED BY  
[Chapman & Cole v. IteI Container International B.V.](#)  
865 F.2d 676 (5th Cir. 1989)

■ CITED IN CONTRADICTION BY  
[Gulley v. Fishing Holdings, LLC \(In re Operation Bass, Inc.\)](#)  
No. 1:14-cv-01226-STA-egb (W.D. Tenn. Dec. 5, 2017)

■ CITED IN CONTRADICTION BY  
[Reyes v. City of N.Y.](#)  
992 F. Supp. 2d 290 (S.D.N.Y. 2014)

■ DISTINGUISHED BY E.D.N.Y. IN 2012  
[Kondaur Capital Corp. v. Cajuste](#)  
849 F. Supp. 2d 363 (E.D.N.Y. 2012)

■ COMPARED TO  
[American Electric Power Co. v. Connecticut](#)  
564 U.S. 410 (2011)

CITED IN BRIEF

HOSTILE SUBSEQUENT AUTHORITY

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■ COMPARED TO

[Chromatics, Inc. v. Telex Computer Prod.](#)

695 F. Supp. 1184 (N.D. Ga. 1988)

■ COMPARED TO

[Allen v. Zurich Ins. Co.](#)

667 F.2d 1162 (4th Cir. 1982)

■ CITED IN CONTRADICTION BY

[Shepler v. Weyerhaeuser Company](#)

279 Or. 477 (Or. 1977)

■ COMPARED TO

[Hanna v. Plumer](#)

380 U.S. 460 (1965)

■ DISTINGUISHED BY U.S. IN 1965

[Hanna v. Plumer](#)

380 U.S. 460 (1965)

■ COMPARED TO

[Brown v. Board of Education](#)

347 U.S. 483 (1954)

■ COMPARED TO

[Sola Electric Co. v. Jefferson Electric Co.](#)

317 U.S. 173 (1942)

■ CITED IN CONTRADICTION BY

[Kersh Lake Dist. v. Johnson](#)

309 U.S. 485 (1940)

■ COMPARED TO

[Hinderlider v. La Plata River & Cherry Creek Ditch Co.](#)

304 U.S. 92 (1938)

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[In re Marshall](#)

392 F.3d 1118 (9th Cir. 2004)

■ REVERSED BY

[Marshall v. Marshall](#)

547 U.S. 293 (2006)

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CITED IN BRIEF

[Jones v. Brennan](#)

465 F.3d 304 (7th Cir. 2006)

HOSTILE SUBSEQUENT AUTHORITY

 CITED IN CONTRADICTION BY

[Am. Elec. Power Serv. Corp. v. Fitch](#)

No. 22-3005 (6th Cir. Aug. 30, 2022)

 COMPARED TO

[Atwood v. Fort Peck Tribal Court](#)

513 F.3d 943 (9th Cir. 2008)

 COMPARED TO

[U.S. v. Bailey](#)

115 F.3d 1222 (5th Cir. 1997)

 COMPARED TO

[U.S. v. Johnson](#)

114 F.3d 476 (4th Cir. 1997)

 COMPARED TO

[In re Goerg](#)

844 F.2d 1562 (11th Cir. 1988)

[Marshall v. Marshall](#)

547 U.S. 293 (2006)

 CITED IN CONTRADICTION BY

[Sarvis v. BMO Harris Bank](#)

No. 14 C 09143 (N.D. Ill. May. 19, 2015)

 DISTINGUISHED BY D.D.C. IN 2008

[Fernebok v. District of Columbia](#)

534 F. Supp. 2d 25 (D.D.C. 2008)

[Augustine v. United States](#)

704 F.2d 1074 (9th Cir. 1983)

 DISTINGUISHED BY E.D. MICH. IN 2015

[Spillers v. United States](#)

Case No. 13-13501 (E.D. Mich. Feb. 9, 2015)

[Lance v. Dennis](#)

546 U.S. 459 (2006)

 RELIES HEAVILY ON A CASE WITH NEGATIVE HISTORY OR TREATMENT

[Rooker v. Fidelity Trust Co.](#)

263 U.S. 413 (1923)

 DISTINGUISHED BY D. MASS. IN 2018

[Decoulos v. Town of Aquinnah](#)

Civil Action No. 17-cv-11532-ADB (D. Mass. Jul. 24, 2018)

[Lefkowitz v. Bank of N.Y.](#)

528 F.3d 102 (2d Cir. 2007)

 QUESTIONED BY 9TH CIR. IN 2023

[Silk v. Bond](#)

65 F.4th 445 (9th Cir. 2023)

CITED IN BRIEF

HOSTILE SUBSEQUENT AUTHORITY

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[McClellan v. Carland](#)

217 U.S. 268 (1910)

 COMPARED TO

[Rogers v. Guaranty Trust Co.](#)

288 U.S. 123 (1933)

 COMPARED TO

[Harkin v. Brundage](#)

276 U.S. 36 (1928)

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[Waterman v. Canal-Louisiana Bank Co.](#)

215 U.S. 33 (1909)

 COMPARED TO

[Commonwealth Co. v. Bradford](#)

297 U.S. 613 (1936)

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[Wisecarver v. Moore](#)

489 F.3d 747 (6th Cir. 2007)

 DISTINGUISHED BY E.D. MICH. IN 2015

[Carpenters' Pension Trust Fund v. Century Truss Co.](#)

Case No. 14-11535 (E.D. Mich. Mar. 27, 2015)