

SMARTCITE REPORT

for 2021-02-11 Appellants opening brief on appeal 20-20566.pdf

- **5 CITED CASES WITH NEGATIVE HISTORY OR TREATMENT**
- **9 CITED CASES WITH CAUTIONARY TREATMENT**
- **4 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)

[Forrester v. White](#)

484 U.S. 219 (1988)

■ SUPERSEDED BY STATUTE AS NOTED IN 270 F. SUPP. 2D 779 P.792

■ CITED IN CONTRADICTION BY

[Olney v. Sacramento County Bar Assn.](#)

212 Cal.App.3d 807 (Cal. Ct. App. 1989)

■ DISTINGUISHED BY 5TH CIR. IN 1989

[Johnson v. Kegans](#)

870 F.2d 992 (5th Cir. 1989)

■ CITED IN CONTRADICTION BY

[Haskell v. Washington Township](#)

864 F.2d 1266 (6th Cir. 1988)

[Parratt v. Taylor](#)

451 U.S. 527 (1981)

■ OVERRULED BY

[Daniels v. Williams](#)

474 U.S. 327 (1986)

■ OVERRULED IN PART BY

[Daniels v. Williams](#)

474 U.S. 327 (1986)

CITED IN BRIEF

HOSTILE SUBSEQUENT AUTHORITY

■ OVERRULED IN PART BY

[Davidson v. Cannon](#)

474 U.S. 344 (1986)

■ OVERRULED IN PART BY

[Hudson v. Palmer](#)

468 U.S. 517 (1984)

■ DISTINGUISHED BY 7TH CIR. IN 2019

[Bradley v. Vill. of Univ. Park](#)

929 F.3d 875 (7th Cir. 2019)

■ DISTINGUISHED BY 6TH CIR. IN 2014

[Daily Servs., LLC v. Valentino](#)

756 F.3d 893 (6th Cir. 2014)

■ DISTINGUISHED BY 6TH CIR. IN 2014

[Daily Servs., LLC v. Valentino](#)

No. 13-4157 (6th Cir. Jun. 26, 2014)

■ COMPARED TO

[Ali v. Ramsdell](#)

423 F.3d 810 (8th Cir. 2005)

■ DISTINGUISHED BY E.D. PA. IN 2002

[Ruiz v. New Garden Township](#)

232 F. Supp. 2d 418 (E.D. Pa. 2002)

■ DISTINGUISHED BY 9TH CIR. IN 2001

[Zimmerman v. City of Oakland](#)

255 F.3d 734 (9th Cir. 2001)

■ DISTINGUISHED BY 4TH CIR. IN 2000

[Jean v. Collins](#)

221 F.3d 656 (4th Cir. 2000)

■ DISTINGUISHED BY MINN. CT. APP. IN 1999

[EBIN v. THE CITY OF SOUTH SAINT PAUL](#)

No. CX-99-584 (Minn. Ct. App. Nov. 23, 1999)

■ DISTINGUISHED BY N.D. ILL. IN 1997

[McKenzie v. City of Chicago](#)

968 F. Supp. 1268 (N.D. Ill. 1997)

CITED IN BRIEF

HOSTILE SUBSEQUENT AUTHORITY

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- DISTINGUISHED BY PA. CMMW. CT. IN 1995

[Anselma Station v. Pennoni Associates](#)

654 A.2d 608 (Pa. Cmmw. Ct. 1995)

 - DISTINGUISHED BY N.J. SUPER. IN 1994

[Rivkin v. Dover Tp. Rent Leveling](#)

277 N.J. Super. 559 (App. Div. 1994)

 - DISTINGUISHED BY 4TH CIR. IN 1990

[Weller v. Dept. of Soc. Serv. for Baltimore](#)

901 F.2d 387 (4th Cir. 1990)

 - COMPARED TO

[Zinermon v. Burch](#)

494 U.S. 113 (1990)

 - DISTINGUISHED BY U.S. IN 1990

[Zinermon v. Burch](#)

494 U.S. 113 (1990)

 - DISTINGUISHED BY 7TH CIR. IN 1988

[Matthiessen v. Board of Education](#)

857 F.2d 404 (7th Cir. 1988)

 - DISTINGUISHED BY 7TH CIR. IN 1988

[Wilson v. Civil Town of Clayton](#)

839 F.2d 375 (7th Cir. 1988)

 - DISTINGUISHED BY S.D. IOWA IN 1987

[Mitchell v. Mills County, Iowa](#)

673 F. Supp. 332 (S.D. Iowa 1987)

 - DISTINGUISHED BY D.N.J. IN 1987

[Fuchilla v. Prockop](#)

682 F. Supp. 247 (D.N.J. 1987)

 - DISTINGUISHED BY OHIO IN 1987

[Cooperman v. Univ. Surgical Assoc., Inc.](#)

32 Ohio St. 3d 191 (Ohio 1987)

 - DISTINGUISHED BY S.D. ALA. IN 1986

[Weeks v. Benton](#)

649 F. Supp. 1297 (S.D. Ala. 1986)

CITED IN BRIEF

HOSTILE SUBSEQUENT AUTHORITY

■ DISTINGUISHED BY 8TH CIR. IN 1986

[Wilson v. City of North Little Rock](#)

801 F.2d 316 (8th Cir. 1986)

■ DISTINGUISHED BY TEX. APP. IN 1986

[Wheat v. Texas Dept. of Corr](#)

715 S.W.2d 362 (Tex. App. 1986)

■ CITED IN CONTRADICTION BY

[Brown v. District of Columbia](#)

638 F. Supp. 1479 (D.D.C. 1986)

■ DISTINGUISHED BY 6TH CIR. IN 1984

[Campbell v. Shearer](#)

732 F.2d 531 (6th Cir. 1984)

■ DISTINGUISHED BY 9TH CIR. IN 1983

[Keniston v. Roberts](#)

717 F.2d 1295 (9th Cir. 1983)

■ DISTINGUISHED BY N.D. IND. IN 1983

[Ellsworth v. Mockler, \(N.D.Ind. 1983\)](#)

565 F. Supp. 110 (N.D. Ind. 1983)

■ CITED IN CONTRADICTION BY

[Sampley v. Ruetters](#)

704 F.2d 491 (10th Cir. 1983)

■ DISTINGUISHED BY D.V.I. IN 1983

[Moorhead v. Government of the Virgin Islands](#)

556 F. Supp. 174 (D.V.I. 1983)

■ DISTINGUISHED BY D. MD. IN 1982

[Juncker v. Tinney](#)

549 F. Supp. 574 (D. Md. 1982)

■ COMPARED TO

[Patsy v. Florida Board of Regents](#)

457 U.S. 496 (1982)

■ DISTINGUISHED BY M.D. TENN. IN 1982

[Howse v. DeBerry Correctional Institute](#)

537 F. Supp. 1177 (M.D. Tenn. 1982)

CITED IN BRIEF

HOSTILE SUBSEQUENT AUTHORITY

 DISTINGUISHED BY U.S. IN 1982

[Logan v. Zimmerman Brush Co.](#)

455 U.S. 422 (1982)

 COMPARED TO

[Logan v. Zimmerman Brush Co.](#)

455 U.S. 422 (1982)

 CITED IN CONTRADICTION BY

[Gilday v. Boone](#)

657 F.2d 1 (1st Cir. 1981)

 COMPARED TO

[Ingraham v. Wright](#)

430 U.S. 651 (1977)

 COMPARED TO

[McNeese v. Board of Education](#)

373 U.S. 668 (1963)

[Shaffer v. Heitner](#)

433 U.S. 186 (1977)

 SUPERSEDED BY STATUTE AS NOTED IN 2015 MDBT 3

 SUPERSEDED BY STATUTE AS NOTED BY

[Mallory v. Norfolk S. Ry. Co.](#)

266 A.3d 542 (Pa. 2021)

 DISTINGUISHED BY D. DEL. IN 2016

[Atcom Support LP v. M/V Nadja Maria](#)

Civil Action No. 15-28-RGA (D. Del. Oct. 4, 2016)

 DISTINGUISHED BY MINN. CT. APP. IN 2015

[Nagel v. Westen](#)

865 N.W.2d 325 (Minn. Ct. App. 2015)

 DISTINGUISHED BY NEV. IN 2012

[Consipio Holding, BV v. Carlberg](#)

128 Nev. Adv. Op. 43 (Nev. 2012)

 DISTINGUISHED BY N.J. SUPER. IN 1996

[Dickstein v. Merrill Lynch](#)

295 N.J. Super. 550 (App. Div. 1996)


 CITED IN CONTRADICTION BY


[Nicholas Co. v. Geibel](#)


564 A.2d 596 (Vt. 1989)


CITED IN BRIEF

HOSTILE SUBSEQUENT AUTHORITY


 DISTINGUISHED BY 4TH CIR. IN 1987
[Pittsburgh Terminal Corp. v. Mid Allegheny Corp.](#)
831 F.2d 522 (4th Cir. 1987)


 CITED IN CONTRADICTION BY
[Amstar Corp. v. S/S Alexandros T.](#)
664 F.2d 904 (4th Cir. 1981)

 CITED IN CONTRADICTION BY
[Clay v. Clay](#)
389 So. 2d 31 (La. 1980)

 CITED IN CONTRADICTION BY
[Watson v. Watson](#)
270 S.E.2d 542 (N.C. Ct. App. 1980)


 DISTINGUISHED BY OR. CT. APP. IN 1980
[State ex rel Healy v. Houston](#)
600 P.2d 886 (Or. Ct. App. 1980)

 CITED IN CONTRADICTION BY
[Gutierrez v. Raymond Intern., Inc.](#)
484 F. Supp. 241 (S.D. Tex. 1979)


 COMPARED TO
[Braband v. Beech Aircraft Corp.](#)
72 Ill. 2d 548 (Ill. 1978)


 CITED IN CONTRADICTION BY
[State, Etc. v. Curtiss-Wright Corp.](#)
577 P.2d 968 (Utah 1978)

[United States v. Turley](#)
352 U.S. 407 (1957)

 OVERRULED IN PART BY
[Borden v. United States](#)
141 S. Ct. 1817 (2021)

[Batts v. Tow-Motor Forklift Co.](#)
66 F.3d 743 (5th Cir. 1995)

 RELIES HEAVILY ON A CASE WITH NEGATIVE HISTORY OR TREATMENT
[Sperry-New Holland v. Prestage](#)
617 So. 2d 248 (Miss. 1993)

 CITED IN CONTRADICTION BY
[U.S. v. \\$4,229.32 U.S. Currency](#)
922 F. Supp. 430 (W.D. Wash. 1996)

[Bowles v. Russell](#)
551 U.S. 205 (2007)

 CITED IN CONTRADICTION BY
[Autobahn Imps., L.P. v. Jaguar Land Rover N. Am., L.L.C.](#)

CITED IN BRIEF

HOSTILE SUBSEQUENT AUTHORITY

896 F.3d 340 (5th Cir. 2018)

■ DISTINGUISHED BY 9TH CIR. IN 2016

[Washington v. Ryan](#)

833 F.3d 1087 (9th Cir. 2016)

■ CITED IN CONTRADICTION BY

[United States v. Spaulding](#)

802 F.3d 1110 (10th Cir. 2015)

■ CITED IN CONTRADICTION BY

[United States v. \\$229,850.00 in U.S. Currency](#)

50 F. Supp. 3d 1171 (D. Ariz. 2014)

■ DISTINGUISHED BY S.D.N.Y. IN 2014

[Fletcher v. Harrington \(In re Soundview Elite Ltd.\)](#)

512 B.R. 155 (S.D.N.Y. 2014)

■ DISTINGUISHED BY 2D CIR. IN 2014

[Tze Wung Consultants, Ltd. v. Bank of Baroda \(In re Indu Craft, Inc.\)](#)

749 F.3d 107 (2d Cir. 2014)

■ CITED IN CONTRADICTION BY

[Shweika v. Dep't of Homeland Sec.](#)

723 F.3d 710 (6th Cir. 2013)

■ CITED IN CONTRADICTION BY

[Payne v. Peninsula School Dist](#)

653 F.3d 863 (9th Cir. 2011)

■ CITED IN CONTRADICTION BY

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

No. CV-10-08153-PCT-FJM (D. Ariz. Mar. 4, 2011)

■ DISTINGUISHED BY U.S. IN 2011

[Henderson v. Shinseki](#)

562 U.S. 428 (2011)

■ COMPARED TO

[Holland v. Florida](#)

560 U.S. 631 (2010)









■ CITED IN CONTRADICTION BY

[In re Robertson](#)

Civil Action No. 09-4182 (GEB) (D.N.J. Apr. 26, 2010)

CITED IN BRIEF

HOSTILE SUBSEQUENT AUTHORITY

	<p> CITED IN CONTRADICTION BY</p> <p>In re Robertson</p> <p>Civil Action No. 09-4181 (GEB) (D.N.J. Apr. 26, 2010)</p>
	<p> CITED IN CONTRADICTION BY</p> <p>MARQUEZ v. AIG AMERICAN INTERNATIONAL COMPANIES</p> <p>Civ. No. 09-838 MCA/WDS (D.N.M. Mar. 15, 2010)</p>
	<p> COMPARED TO</p> <p>Kontrick v. Ryan</p> <p>540 U.S. 443 (2004)</p>
<p>Penn Co. v. Pennsylvania</p> <p>294 U.S. 189 (1935)</p>	<p> CITED IN CONTRADICTION BY</p> <p>Chicago, v. Ten (10) Parcels of Real Estate</p> <p>159 F. Supp. 140 (S.D. Iowa 1958)</p>
	<p> COMPARED TO</p> <p>Kline v. Burke Constr. Co.</p> <p>260 U.S. 226 (1922)</p>
<p>Stump v. Sparkman</p> <p>435 U.S. 349 (1978)</p>	<p> DISTINGUISHED BY 4TH CIR. IN 1992</p> <p>King v. Myers</p> <p>973 F.2d 354 (4th Cir. 1992)</p>
	<p> CITED IN CONTRADICTION BY</p> <p>P.S. by Harbin v. W.S</p> <p>443 N.E.2d 67 (Ind. Ct. App. 1983)</p>
<p>Texas v. U.S.</p> <p>497 F.3d 491 (5th Cir. 2007)</p>	<p> CITED IN CONTRADICTION BY</p> <p>New York v. Jewell</p> <p>6:08-CV-0644 (LEK/DEP) (N.D.N.Y. Mar. 4, 2014)</p>

CITED IN BRIEF

[Exxon Mobil Corp. v. Saudi Basic Industries Corp.](#)
544 U.S. 280 (2005)

HOSTILE SUBSEQUENT AUTHORITY

■ RELIES HEAVILY ON A CASE WITH NEGATIVE HISTORY OR TREATMENT

[Rooker v. Fidelity Trust Co.](#)
263 U.S. 413 (1923)

■ DISTINGUISHED BY E.D. MICH. IN 2019

[Talbot v. U.S. Bank](#)
Case Number 19-10214 (E.D. Mich. Sep. 3, 2019)

■ COMPARED TO

[Cooper v. Ramos](#)
704 F.3d 772 (9th Cir. 2012)

■ DISTINGUISHED BY D.N.M. IN 2011

[Federal Deposit Insurance Corporation v. Harger](#)
778 F. Supp. 2d 1123 (D.N.M. 2011)

■ DISTINGUISHED BY D.N.M. IN 2011

[Federal Deposit Insurance Corporation v. Harger](#)
No. CIV 89-0237 JB/RLP (D.N.M. Mar. 30, 2011)

■ DISTINGUISHED BY D.D.C. IN 2010

[Richardson v. District of Columbia](#)
711 F. Supp. 2d 115 (D.D.C. 2010)

■ DISTINGUISHED BY D. MINN. IN 2007

[Cantu v. Muraski](#)
Civil No. 05-cv-2629 (RJK/JJG) (D. Minn. Dec. 18, 2007)

■ DISTINGUISHED BY D. ARIZ. IN 2006

[Ottiano v. Foreman](#)
No. CV-05-643-PHX-DGC (D. Ariz. Jan. 6, 2006)

■ DISTINGUISHED BY D. CONN. IN 2005

[Dunbar v. Lavery](#)
Civil Action No. 3:05cv1233 (SRU) (D. Conn. Sep. 21, 2005)

■ COMPARED TO

[D.C. Court of Appeals v. Feldman](#)
460 U.S. 462 (1983)

■ COMPARED TO

[Rooker v. Fidelity Trust Co.](#)
263 U.S. 413 (1923)

CITED IN BRIEF

HOSTILE SUBSEQUENT AUTHORITY

[Goodman v. Summit at West Rim, Ltd.](#)

952 S.W.2d 930 (Tex. App. 1997)

■ DISTINGUISHED BY TEX. APP. IN 2015

[Davis v. Merriman](#)

No. 04-13-00518-CV (Tex. App. Mar. 4, 2015)

[Groome Resources Ltd. v. Parish of Jefferson](#)

234 F.3d 192 (5th Cir. 2000)

■ RELIES HEAVILY ON A CASE WITH NEGATIVE HISTORY OR TREATMENT

[United States v. Lopez](#)

514 U.S. 549 (1995)

■ COMPARED TO

[Logan v. Matveevskii](#)

57 F. Supp. 3d 234 (S.D.N.Y. 2014)

■ COMPARED TO

[Taylor v. the Housing Authority of New Haven](#)

267 F.R.D. 36 (D. Conn. 2010)

■ DISTINGUISHED BY 5TH CIR. IN 2003

[GDF Realty Investments, Ltd. v. Norton](#)

326 F.3d 622 (5th Cir. 2003)

[Jones v. Blume](#)

196 S.W.3d 440 (Tex. App. 2006)

■ COMPARED TO

[Tribeca Companies, LLC v. First American Title Insurance Co.](#)

239 Cal.App.4th 1088 (Cal. Ct. App. 2015)

■ COMPARED TO

[Home Loan Corp. v. Texas American Title Co.](#)

191 S.W.3d 728 (Tex. App. 2006)

■ COMPARED TO

[Greater Houston Transp. Co. v. Phillips](#)

801 S.W.2d 523 (Tex. 1991)

■ COMPARED TO

[City of Fort Worth v. Pippen](#)

439 S.W.2d 660 (Tex. 1969)

[Punts v. Wilson](#)

137 S.W.3d 889 (Tex. App. 2004)

■ COMPARED TO

[Greater Houston Transp. Co. v. Phillips](#)

801 S.W.2d 523 (Tex. 1991)

CITED IN BRIEF

[Rivera v. Wyeth-Ayerst Laboratories](#)

283 F.3d 315 (5th Cir. 2002)

HOSTILE SUBSEQUENT AUTHORITY

■ COMPARED TO

[Chavez v. Plan Benefit Servs.](#)

957 F.3d 542 (5th Cir. 2020)

■ DISTINGUISHED BY TEX. APP. IN 2004

[Farmers Group v. Geter](#)

Nos. 09-03-404 CV, 09-03-396 CV (Tex. App. Oct. 21, 2004)

■ COMPARED TO

[Microsoft Corp. v. Manning](#)

914 S.W.2d 602 (Tex. App. 1995)

[Royal Ins. Co. of America v. Quinn-L Cap. Corp.](#)

3 F.3d 877 (5th Cir. 1993)

■ COMPARED TO

[National City Lines, Inc. v. LLC Corp.](#)

687 F.2d 1122 (8th Cir. 1982)

■ COMPARED TO

[Barancik v. Investors Funding Corp. of N. Y](#)

489 F.2d 933 (7th Cir. 1973)

[State Nat. Ins. Co. Inc. v. Yates](#)

391 F.3d 577 (5th Cir. 2004)

■ RELIES HEAVILY ON A CASE WITH NEGATIVE HISTORY OR TREATMENT

[Mine Workers v. Gibbs](#)

383 U.S. 715 (1966)