

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 08-12199

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT JULY 27, 2010 JOHN LEY CLERK
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DAVID W. CORBITT,
ALEXANDER J. RAYA, JR.,

Plaintiffs-Appellants,

versus

HOME DEPOT U.S.A., INC.,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Alabama

BEFORE: DUBINA, Chief Judge, TJOFLAT, EDMONDSON, BIRCH, BLACK,
CARNES, BARKETT, HULL, MARCUS, WILSON, PRYOR and MARTIN.

BY THE COURT:

On July 19, 2010, the parties in the above-entitled appeal, filed a Joint
Motion to Dismiss Appeal with Prejudice. Upon consideration of those matters

contained in the parties' joint motion, and for good cause shown, it is **ORDERED** that said motion be and the same is hereby **GRANTED**. The panel opinion, published in 589 F.3d 1136, had already been vacated by our order granting rehearing en banc. *Corbitt v. Home Depot U.S.A., Inc.*, 598 F.3d 1259, 1259 (11th Cir. 2010) (*en banc*). The judgment of the district court is vacated and the case is remanded to the district court with instructions that the case be dismissed. *See Key Enterprises of Delaware, Inc. v. Venice Hospital*, 9 F.3d 893, 894 & 898-99 (11th Cir. 1993) (*en banc*) (*per curiam*). Each party is to bear its own costs and attorney's fees, subject to any separate agreement by the parties.