

# Carlton Fields Scores Appellate Win for Winn-Dixie; 11th Circuit Scolds Big Lots and Dollar General

January 31, 2018

In the latest chapter of *Winn-Dixie Stores, et al. v. Dolgencorp LLC et al.*, a case in which Carlton Fields attorneys Dean A. Morande and Thomas E. Warner represent Winn-Dixie in a dispute over retail exclusivity rights, the Eleventh Circuit Court of Appeals criticized opposing counsel for Big Lots and Dollar General in its Jan. 31, 2018 published opinion. The three-judge panel said that Big Lots and Dollar General attorneys convinced a lower court to disregard its mandate after it reversed the lower court's decision and sent the case back for a new trial. In particular, the Eleventh Circuit said that the district court had misapplied Florida law in determining whether 41 of the defendants' stores violated Winn-Dixie's restrictive covenants because the district court did not follow the holding from a 2002 case, *Winn-Dixie v. 99 Cent Stuff-Trail Plaza, LLC.*, which defined key terms such as "groceries" and "sales area." "Needless to say (or maybe not), a district court cannot amend, alter, or refuse to apply an appellate court's mandate simply because an attorney persuades the court that the decision giving rise to the mandate is wrong, misguided or unjust ... The mandate in our earlier decision in this case involving the Florida stores did not leave room for confusion or genuine doubt. It was not vague or ambiguous," the appellate court said. Several media outlets reported on the opinion. ABA Journal: "[11<sup>th</sup> Circuit Blasts BigLaw Partner for Remand Argument Against Its Mandate: 'We Really Did Mean It'](#)"

Above The Law: "[Eleventh Circuit Bench Slaps BigLaw Partner and District Court For Not Following Order](#)"

Fulton County Daily Report: "[11<sup>th</sup> Circuit Bench Slaps Judge, Troutman Sanders Lawyer for Ignoring Order](#)"

Law360: "[11<sup>th</sup> Circuit Scolds Big Lots and Dollar General Attorneys in Exclusivity Row](#)"  
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