



# The Appellate Angle **ALERT**

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## Illinois Supreme Court to Consider Whether Punitive Damages Under the Telephone Consumer Protection Act Are Insurable

October 1, 2012

On September 26, 2012, the Illinois Supreme Court accepted the petition for leave to appeal in *Standard Mut. Ins. Co. v. Lay*. The insured real estate agency sent more than 3,400 unsolicited faxes, resulting in it being named as a defendant in a class action. The agency settled the lawsuit and assigned to the plaintiff class its rights to payment from the agency's insurer.

The insurer filed a declaratory judgment action. One of the issues raised by the insurer was that damages under the Telephone Consumer Protection Act (TCPA) are in the nature of punitive damages and are not insurable in Illinois. The appellate court agreed and held that the \$500 liquidated damages provided for in the TCPA are in the nature of punitive damages and not insurable as a matter of Illinois law and public policy.

Download to read the appellate court's decision in [Standard Mut. Ins. Co. v. Lay, 2012 IL App \(4th\) 1377599](#).

For further information, please contact [Christine Olson McTigue](#) or your regular [Hinshaw attorney](#).

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