

In the Supreme Court of the State of Utah

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In re: Application of Timpanogos Legal Center's Certified
Advocate Partners Program

AMENDED ORDER FOR AUTHORIZATION TO PRACTICE LAW

Based upon the Utah Supreme Court's plenary and constitutionally granted authority to regulate the practice of law in Utah, and the tenets of Standing Order 15, the Utah Supreme Court orders that Timpanogos Legal Center Certified Advocate Partners Program ("TLC Certified Advocates") is authorized to practice law within the regulatory sandbox and subject to the restrictions outlined below.

The Court has reviewed the recommendation of the Office of Legal Services Innovation ("Innovation Office") dated February 4, 2021, for TLC Certified Advocates to be authorized to practice law.

Timpanogos Legal Center ("TLC") seeks authorization for a pilot program through which domestic Victim Advocates (nonlawyers who assist victims of crimes such as domestic violence, sexual assault and abuse, child abuse, elder abuse, and stalking), with significant experience would be permitted to provide more substantial legal services to assist victims with obtaining orders of protection under the oversight of a Program Coordinator (a Utah licensed lawyer with expertise in the subject area) at TLC. Advocates working through this program would have the title of "Certified Advocates."

The Innovation Office has assessed the risk of harm to TLC Certified Advocates' targeted consumers relative to the risk of harm they currently face and has determined that the risk of harm presented by TLC Certified Advocates' services is Moderate.

In light of the Court's responsibility to the public to effectively regulate the practice of law in Utah and in keeping with the tenets of Standing Order 15, the Court now orders as follows:

1. TLC Certified Advocates is authorized to offer legal services through the following models:¹
 - a. Nonlawyer provider² with lawyer involvement³
 - i. Nonlawyer providers offering:
 1. Legal information,
 2. Legal process assistance,
 3. Form completion assistance, and
 4. Basic legal advice on completion of forms and court presentation.
 - ii. Lawyer involvement including:
 1. Victim advocate required training;
 2. Supplemental training on legal form completion, including civil code and rules of evidence;
 3. Oversight by lawyer coordinator at TLC.
2. TLC Certified Advocates is authorized to provide legal services across the following legal service areas only:
 - a. Domestic violence
 - b. Marriage and Family
3. Utah lawyers working with TLC Advocates Program remain otherwise subject to the Utah Rules of Professional Conduct. However, to the extent that TLC Advocates Program's service model could be found to implicate Utah Rule of Professional Conduct 5.3, the Court waives application of that rule as to lawyers managing Certified Advocate Partners.

¹ The title "Certified" in this case does not reflect certification by the Court but rather certification by Timpanogos Legal Center according to the terms they have proposed in their application for Sandbox authorization.

² Provider means legal practitioner: a provider who or which is practicing law, including offering legal advice.

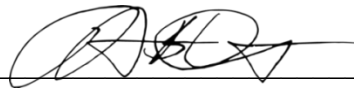
³"Lawyer involvement" means a Utah-licensed lawyer both (1) provides guidance and oversight of the provider at the front end, i.e. through developing training materials and overseeing training of providers and developing scripts and/or algorithms, and (2) performs regular spot checks of providers services for quality and accuracy.

4. TLC Certified Advocates shall conform to the Moderate innovation reporting requirements imposed by the Innovation Office.
5. TLC Certified Advocates will prominently display the following disclosure requirements:
 - a. Innovation Office Badge
 - b. Nonlawyer provider disclosure

If TLC Certified Advocates wishes to alter these conditions or requirements, it must submit any such change to the Innovation Office for further assessment. The Innovation Office will assess the proposed change and may permit the change if it deems the change does not materially increase the risks to consumers. If the Innovation Office finds a material increase in risk then it will present the issue to the Court for further consideration.

This authorization is granted for the duration of the existence of the Sandbox, or until exit and permanent licensure at the discretion of the Court. Authorization is subject to TLC Certified Advocate's compliance with the conditions and requirements set forth in the Innovation Office Manual and the Innovation Office Recommendation to the Court and to a verification by the Innovation Office that the company's services are not causing material harm to consumers.

DATED this 16th day of August, 2022.



Matthew B. Durrant
Chief Justice



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

SANDBOX PARTICIPANT APPLICATION

The Sandbox is for innovative services models that cannot otherwise be offered under the present Rules of Professional Conduct or are considered the unauthorized practice of law. There are a few qualifications to this mandate:

1. The Sandbox is for all business and service models falling under Utah Rule of Professional Conduct 5.4 and Utah Supreme Court Standing Order No. 15.
2. Suspended or disbarred lawyers are barred from holding an ownership interest of greater than 10% in any Sandbox entity.
3. The Sandbox is not meant to be a mechanism by which out-of-state lawyers can practice in Utah without otherwise completing the requirements imposed by the Utah State Bar.
4. The Sandbox does not and cannot impact requirements imposed by other applicable Utah or federal laws, the laws or requirements imposed by other jurisdictions, or the requirements imposed by other regulatory bodies. Authorization to practice law in Utah through the Sandbox does not release any entity or individual therein from conforming to all other applicable laws and regulations.
5. As made clear in Rule 5.4 and Standing Order No. 15, lawyers working with or in entities participating in the Sandbox are required to maintain their duties under the Rules of Professional Conduct.

Your application will be made publicly available. You will have the opportunity to make a claim of business confidentiality for specific information that would qualify for protection under GRAMA Section 63G-2-305. Making false or materially misleading statements in this application is a basis for loss of authorization to practice within the Sandbox. Other criminal and civil sanctions may also apply.

Should your answers to any of the application questions change, you are responsible for updating the information with the Innovation Office. Failure to promptly update information will be considered relevant to your regulatory status.

If you have any questions, please contact the Innovation Office at sandbox@utcourts.gov.

1. PROPOSED SERVICES

1.1. Describe your proposed legal services offering in detail.

Please include (i) who provides the legal services, (ii) how consumers will access/receive these services, and (iii) what your service will do for your customers.

Utah law provides victims of crime with the ability to obtain protection from their abuser via protective and restraining orders. However, the process of obtaining these orders can be quite complicated, compounded by the number of different orders available. The justice system can appear inaccessible and victims can be in compromised emotional and mental states, making the process of obtaining protection difficult.

Utah has a robust Victim Advocate program, with Victim Advocates located throughout the state. These Advocates assist victims of crimes such as domestic violence, child abuse, sexual harassment, elder abuse, and stalking, in becoming independent and escaping abuse, providing this service to victims free of charge. They provide emotional support, but they primarily aid victims in navigating the resources available to them. Advocates are employed by shelters and by law enforcement offices.

Victim Advocates often aid victims in filling out the paperwork for a protective order. This involves explaining the different types of orders, explaining the correct form, and walking victims through the information requested. However, Victim Advocates are constrained from providing victims with legal advice when filling out these forms, such as what information is most important to include or what specifically a judge may be looking for, despite the Advocates having this knowledge from training and experience.

Advocates often attend the protective order and stalking injunction hearings of the victims they assist, meaning they will repeatedly see the same judges and hear them explain their reasoning for granting or denying an order. Because of this, Advocates develop a keen sense as to how different judges will rule on a particular case and what the judge will be looking for when considering a protective order request. Advocates know what evidence is most important to provide and how to best explain the situation in the application. This knowledge is an incredibly powerful tool for Advocates to utilize when aiding clients in filling out a request for an order and preparing for the hearing. However, the line between allowable guidance and the unauthorized practice of law is not completely clear, which leads Advocates to restrict what they tell victims. Advocates are unable to explain the law, how the facts of the client's case fit the factors the court considers, and whether the evidence the victim has collected will be sufficient for the standards considered by the court. Victims would greatly benefit from having access to this specialized knowledge.

Timpanogos Legal Center (TLC) seeks to create a program in which Victim Advocates are allowed to 1) draft legal documents to secure protective orders and stalking injunctions and 2) provide legal advice pertaining to protective orders and stalking injunctions when helping clients complete their paperwork and prepare for their hearing. We believe this will increase the probability of victims obtaining Protective Orders and uses a structure with personnel that already exists. We will build upon this structure by providing additional legal training.

During the pilot year, consumers, hereinafter referred to as "victims," will access services from a Certified Advocate if there is one in their geographical area. Our vision is that this program will eventually expand across the state, but in the beginning the services will be limited to the locations of the selected Advocates.

There are two types of Victim Advocates: community-based advocates and system-based advocates. Community-based advocates work with independent organizations, such as shelters and other nonprofits, to provide their services to victims. Should victims seek protection via a shelter, they can be introduced to an Advocate and this program at that time. System-based advocates work with a criminal justice agency, such as a police department or prosecutor's office, and report information from their client to the agency who employs them. If a victim reports abuse to law enforcement, they may be matched to an Advocate in their area and access this service in that way.

We seek to enter the Sandbox as a pilot project in which we select approximately five to six Victim Advocates from across the state to participate in the program. If the program yields the positive results we expect, we will seek permission from the Office of Legal Services Innovation to expand the program to more Victim Advocates in order to serve more victims in Utah.

The program will be called the "Certified Advocate Partners Program," and the participating Advocates who are trained and subsequently authorized to dispense legal advice will be called "Certified Advocates."

1.2. Describe the entity business model you want authorized in the Sandbox, including the management structure which will oversee direct legal service providers.

This program will be housed within and run by Timpanogos Legal Center, a Utah nonprofit providing legal services to victims of domestic violence and low-income persons throughout the state. Timpanogos Legal Center is managed by an Executive Director, who is an attorney licensed in Utah. The Executive Director will oversee a Program Coordinator, who will be an attorney licensed in Utah who is familiar with Utah protective and restraining order law. This Program Coordinator will directly oversee the Certified Advocates. The Program Coordinator will also coordinate with the Office of Legal Services Innovation to determine the data that needs to be collected, identify the methodology for data collection and interpretation, and make reports regarding compliance. The Coordinator will also perform other activities such as providing support to the Certified Advocates, publicizing the program and working with partner agencies to inform potential applicants of the scope of the program's services, and staying abreast of legal and other developments that may impact the program. There are five other TLC part-time staff attorneys who will be available to answer questions and support the Certified Advocates as needed.

1.3. Why is your proposal eligible to enter the Sandbox?

Identify the specific model, service or product innovations that are not permitted under the traditional rules governing the practice of law.

Due to Rule 14-802, Authorization to practice law, of the Utah Judicial Council Code of Judicial Administration, Victim Advocates are restrained from "informing, counseling, advising, assisting, advocating for or drafting documents for [victims] through application of the law and associated legal principles to that person's facts and circumstances." 14-802(b)(1).

The Rule already provides several exceptions that enable non-lawyers to practice law, such as Licensed Paralegal Practitioners, real estate agencies completing State-approved forms, and health care providers providing "clerical assistance to patients in completing and executing durable powers of attorney for health care." 14-802(c), (d). It is therefore within reason that an exception can be made for trained Certified Advocates to assist victims in preparing protective order and stalking injunction applications.

Should an exception be made for Advocates participating in our program, the Certified Advocates would be allowed to provide legal advice to victims when requesting a protective order or stalking injunction and preparing for the hearing.

1.4. Describe your target consumer(s).

For example: single parents making <\$50,000 in a custody dispute, first generation college students in a landlord-tenant dispute; renters 40+ years planning for retirement; college educated entrepreneurs seeking legal advice in starting a business.

Our target consumers are victims of domestic violence or stalking who are seeking legal protection from their abuser or stalker. We expect to work with victims of all genders, races, ethnicities, economic statuses, and abilities.

If minors request the assistance of a Certified Advocate, the Advocate must immediately notify the Program Coordinator before dispensing any legal advice. The Program Coordinator and Executive Director will review the case and notify the Certified Advocate if they may work with the minor in their capacity as a Certified Advocate.

1.5. Which service models are you seeking to use? Select all that apply.

- Lawyers employed or managed by a nonlawyer
 - Less than 50% nonlawyerownership
 - More than 50% nonlawyerownership
 - Lawyers sharing legal fees or paying referral fees to nonlawyers
 - Nonlawyer provider¹ with lawyer involvement²
 - Nonlawyer provider without lawyerinvolvement
 - Software provider with lawyerinvolvement
 - Software provider without lawyerinvolvement
 - Other:
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1.6. Which legal service categories are you seeking to offer?

- | | | |
|---|---|--|
| <input type="checkbox"/> Accident/Injury | <input type="checkbox"/> Education | <input type="checkbox"/> Housing - Rental |
| <input type="checkbox"/> Adult Care | <input type="checkbox"/> Employment | <input type="checkbox"/> Marriage and Family |
| <input type="checkbox"/> Business | <input type="checkbox"/> End of Life Planning | <input type="checkbox"/> Military |
| <input type="checkbox"/> Criminal - Expungement ONLY | <input type="checkbox"/> Financial Issues | <input type="checkbox"/> Native American + Tribal Issues |
| <input type="checkbox"/> Discrimination | <input type="checkbox"/> Immigration | <input type="checkbox"/> Public Benefits |
| <input checked="" type="checkbox"/> Domestic Violence | <input type="checkbox"/> Healthcare | <input type="checkbox"/> Real Estate |
| | | <input type="checkbox"/> Traffic - civil actions / citations |

¹ Provider means legal practitioner: a provider who or which is practicing law, including offering legal advice.

² Involvement denotes a range of activities, including guidance on initial development of forms, scripts, processes, software. It could mean a lawyer does sample reviews of product/service performance. It could mean a lawyer is available to advise the nonlawyer provider as needed - including via red flag trap doors in software.

2. RISK ASSESSMENT

The Innovation Office must assess whether new legal service models cause consumers to get inappropriate or otherwise flawed legal results, fail to exercise legal rights through ignorance or bad advice, or purchase an unnecessary or inappropriate legal service.

2.1. Fully and candidly discuss the risks your customers might face if they use your proposed model, including each of the risks described above.

Victims run the risk of receiving incorrect legal advice from the Certified Advocate, which could subsequently cause their protective order or stalking injunction application to be denied. This would result in the victim not receiving important legal protection from their abuser.

There is also a risk that a Certified Advocate may push a victim to apply for a protective order that they know will be unsuccessful. This would result in dismissal of the protective order and potentially the opposing party seeking attorney's fees.

2.2. Describe the specific ways you will identify, track, and mitigate the risks to consumers in your proposed model.

These efforts could include quality control measures, training, provider testing.

We are implementing several program components that will enable us to identify and mitigate risks to victims.

- **Pilot Program.** The first year of the program will be a pilot program wherein we accept approximately five to six Victim Advocates to become Certified Advocates. During this year we will closely monitor the advice that is given by the Certified Advocates and the outcome of those protective order applications. Because we are working with a small number of Advocates, we will have the ability to identify problems that might arise so that we can plan and prepare for the program with more Victim Advocates. We will address those problems and eliminate them before deploying the full program.
During the execution of the pilot program, we will provide training based on the needs of the Certified Advocates. We will solicit applications and select only those Advocates who are experienced, trustworthy, and trainable. We will consider the number of years of experience; experience with the court system; the number of clients served; education and training; and recommendations from their employer, other agencies, or educators.
This selectivity will help ensure that only experienced and knowledgeable Certified Advocates provide legal advice.
- **Training.** All Victim Advocates are required to obtain two certifications: 1) a forty-hour Sexual Assault Training; and 2) a forty-hour Core Advocacy Training. There are ongoing trainings offered to Victim Advocates, as well as conferences to provide additional knowledge and training. Victim Advocates are also mentored by more experienced Advocates. However, we recognize that this is insufficient training to prepare them to give legal advice. We will provide training specifically on document drafting and protective order and stalking injunction issues for the Victim Advocates, including thorough explanations on the Utah code and rules of evidence. These materials will become the basis for the training for future Certified Advocates. We are also communicating with Stacy Butler, the Director of Innovation for Justice Program at the University of Arizona's law school, who is developing a similar program. She will be running a pilot on her program at the same time. She has developed substantive materials that she plans to share once her pilot is complete.
- **Attorney Supervision.** Each Certified Advocate will be supervised by the Program Coordinator employed by Timpanogos Legal Center. This Program Coordinator will provide feedback, respond to questions, and provide additional training as needed. Victim Advocates will have contact information to reach Timpanogos Legal Center's staff attorneys whenever they have a question to ensure correct legal advice is given.
- **Attorney Representation at the Hearing.** Many victims are able to secure free attorney representation for the protective order hearing through organizations like Utah Legal Services or Legal Aid Society of Salt Lake. This attorney should be able to spot any errors in the paperwork and can either correct the problem when negotiating with the opposing side or, in rare circumstances, by asking for a continuance to amend the paperwork. Thus, the attorney can mitigate any problem should incorrect advice be given by the Certified Advocate.
We will reach out to attorneys who have represented victims who received assistance and counsel from Certified Advocates and ask if the Certified Advocate made any errors when preparing the protective order or the victim for the hearing. If the attorney communicates that errors were made, the Program Coordinator will meet with the Certified Advocate to complete additional training. If a Certified Advocate continues to make errors, the Program Coordinator will meet with the Executive Director to discuss whether to revoke the certification of the Advocate.

2.3. Please describe your consumer complaint process.

Consumers should contact the Program Coordinator by phone or email to file a complaint. The Coordinator will record information about the complaint and investigate the claim. The Coordinator will talk with the Certified Advocate, pull court records, review the victim's protective order application, and take any other steps necessary to determine what happened.

The Coordinator will inform the Executive Director about the complaint and the results of the investigation. The Director will approve any necessary remedial actions. Every victim will receive follow up regarding their complaint by either the Coordinator or the Director. If the client is still not satisfied, the complaint will go to the Timpanogos Legal Center Board.

3. BENEFITS TO UTAH CONSUMERS

The Innovation Office is assessing potential benefits of proposed offerings to the Utah legal market.

3.1. Describe how your model will provide higher quality, more cost effective, and more accessible legal services for your target consumers.

Victim Advocates are provided to victims free of charge. Attorneys can be out of economic reach for many victims, especially victims of domestic violence whose partners control the finances. Should Victim Advocates be able to provide legal advice to victims, victims would have access to otherwise out-of-reach legal advice that can help them secure important legal protection. This is particularly important because the Protective Order is often the first legal action a victim will take, often before the divorce or custody case, or resolution on the criminal action. Our program fills an important gap in the current delivery of services: the provision of legal advice to victims.

Victim Advocates often help victims of domestic violence complete the request forms required to request a protective order, which involves multiple pages of forms that can seem overwhelming to a person who has been traumatized during the relationship that is ending. The Utah Courts have made an excellent step forward in making the necessary forms available on the Utah Courts website and on the Online Court Assistance Program. Both of these steps increase the accessibility to the legal system and the protections it affords, but victims can still struggle to know how to best fill out the paperwork with the most salient facts and likely do not understand the nuances of the law and what is being asked of them.

Victims are often unfamiliar with the justice system and may not include important information because they are not aware that they should, or they may include too much unimportant information. For example, a victim may explain how mean their abusive partner is and how it makes them feel when they should be explaining the details of the abuse. However, Victim Advocates are familiar with the justice system and know what facts are most salient, as well as how to prepare for the hearing, what evidence to collect, and what to expect during the process. Advocates also have a relationship with the victims and know the facts regarding their individual situations, unlike an attorney who may step in to represent a victim at the hearing with little to no preparation. Given this combination, Victim Advocates are uniquely situated to provide informed, individualized help and guidance.

Many victims do not end up following through on their protective order requests. This can be for many reasons, but often uncertainty about the legal process and fear of retaliation play a part. Victims may not submit the proposed order, or they may fail to appear for their hearing to extend the temporary order. If Victim Advocates are able to provide legal advice, it can empower victims to follow through on their requests because they will better understand the likelihood of their request being granted and the protection that it can offer them. Victims may also decide to dismiss their application due to increased hostility from the abuser, hoping that they can resolve the situation on their own. However, if victims dismiss a protective order, they must wait for a new incident of abuse before being able to secure a new order. Certified Advocates will be able to explain the full ramifications of such a choice.

Additionally, it is not uncommon for victims to negotiate down their request from a protective order to a restraining order, unaware of the key differences between the orders. Protective orders are entered onto the statewide system, which enables law enforcement to be aware of the order and respond appropriately to calls from the victim, including arresting the abuser who is in violation of the order. Restraining orders are not enforced by law enforcement. It is on the shoulders of the victim to file an Order to Show Cause. The victim has to hire an attorney, pay the retainer, and wait for the hearing, just to find out that the typical consequence is for the abuser to be ordered to pay the victim's attorney fees, but there is no service to help the victim actually collect the money. Through our program, Certified Advocates will provide legal advice to victims about the differences between orders, including their enforceability and consequences of choosing one over the other. This advice enables victims to make informed and empowered decisions.

We believe that this program will increase the likelihood of victims securing legal protection appropriate to their situation via protective orders and stalking injunctions because they will be better advised, informed, and prepared. Overall, we believe the biggest benefits will be (1) increased likelihood that victims will follow through with their protective order requests; (2) increased likelihood that victims will secure the legal protection they are seeking; and (3) empowering victims to have the confidence necessary to appear at their protective order hearing. We are currently exploring what data is available in these areas so we can track the success of the program.

3.2. Does your proposal comply with applicable Utah legal requirements?

For example: staffed by UT licensed attorneys, built to complete state legal forms.

Yes. The Certified Advocates will be trained and mentored by Utah licensed attorneys and will be assisting with forms generated by the Utah Courts and conforms with the Utah Rules of Evidence.

3.3. Identify which of your service models are ready to immediately implement.

The Office of Innovation is only authorized to consider proposals which are ready to begin offering legal services not currently authorized in Utah at the time of authorization.

We are prepared to deploy the pilot program in January or February 2021.

4. CONFIRMATION OF ELIGIBILITY

- 4.1. List all persons or entities who wholly or partially direct the management or policies of your proposed entity and/or the direct provision of legal services to consumers, whether through ownership of securities, by contract, or otherwise ("controlling persons").

Susan Griffith, Executive Director of Timpanogos Legal Center

The Timpanogos Legal Center Board:

Richard Sheffield, President of the Board, partner at Fillmore Spencer

Jill Jaspersen, VP of the Board, Professor at UVU

Liisa Hancock, Secretary of the Board, Jeffs and Jeffs

Craig Carlile, Treasurer of the Board, Ray Quinney Nebeker

Carl Hernandez, Member of the Board, Professor at BYU's law school

Tatiana Christensen, Member of the Board, Utah Legal Service Pro Bono Coordinator

- 4.2. List all persons or entities who will wholly or partially (greater than 10%) finance the business of your proposed entity ("financing persons").

Utah Office of Crime Victims-we receive Victim of Crime Act funds (a large federal grant)

Joseph & Kathy Sorenson Foundation

Sorenson Legacy Foundation

Utah Bar Foundation

- 4.3. Please note that no financing person may be a disbarred or suspended lawyer. List all controlling persons who are disbarred or suspended lawyers.

None.

- 4.4. List all controlling persons or financing persons of your proposed entity who have a felony criminal history.

None.

4.5. List all persons who will be in a managerial role over the direct provision of legal services to consumers who are disbarred lawyers.

None.

4.6. List all persons who will be in a managerial role over the direct provision of legal services to consumers who have a felony criminal history.

None.

4.7. Please select the most accurate description: My proposed entity has a material corporate relationship and/or business partnership with:

- A disbarred or suspended lawyer
- An individual with a felony criminal history
- Neither a disbarred / suspended lawyer nor an individual with a felony criminal history

4.8. Disclose any history of state or federal criminal (misdemeanor or felony) conviction, state or federal consent decree, or state or federal enforcement action resulting in sanctions (disgorgement, civil penalties, and/or injunction) for the entity and, if applicable, its parent and other affiliated companies.

None.

4.8. Disclose whether the entity, parent, and other affiliated companies are, to their knowledge, currently subject to a state or federal criminal investigation or state or federal enforcement action.

Not currently subject to a state or federal criminal investigation or state or federal enforcement action.

I confirm that no financing persons listed in this application are disbarred or suspended lawyers.

Signature: 

Printed Name: Susan Griffith

Title: Executive Director Date: December 22, 2020

SELLING OF CONSUMER DATA DISCLOSURE

Please indicate whether your business model includes the sharing or selling of consumer data in any form to third parties.

Yes

No

PUBLIC APPLICATION

Your application will be made publicly available. You will have the opportunity to make a claim of business confidentiality for specific information that would qualify for protection under GRAMA Section 63G-2-305. Making false or materially misleading statements in this application is a basis for loss of authorization to practice within the Sandbox. Other criminal and civil sanctions may also apply.

I understand.

Signature: _____

Susan Griffith

Printed Name: Susan Griffith

Title: Executive Director, Timpanogos Legal Center Date: December 22, 2020