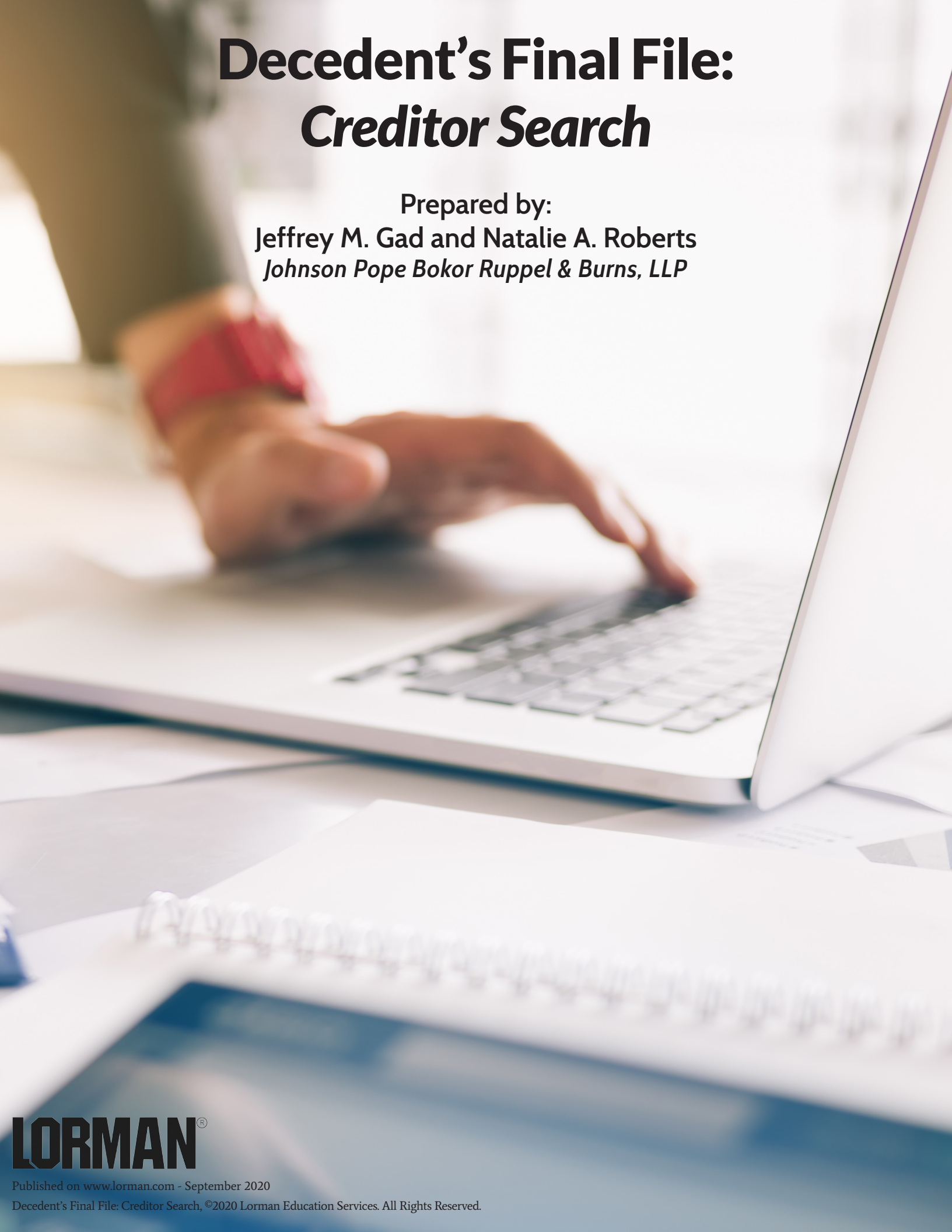


# Decedent's Final File: *Creditor Search*

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**MEMORANDUM**

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***CREDITOR SEARCH***

An important role of the personal representative in the settlement of an estate is to promptly make a “*diligent search*” to determine potential creditors of the decedent who are “*reasonably ascertainable*” and to serve on them a Notice to Creditors. If this task is properly performed, the claims of potential creditors will be barred after the later of (i) 3 months after first publication of the Notice to Creditors or (ii) 30 days after date of service of a copy of the Notice to Creditors. If this task is improperly performed, the claims of potential creditors may not be barred for a period of 2 years following the decedent’s death.

***Who are reasonably ascertainable creditors?***

According to Florida Statute § 733.2121 “*the personal representative shall...make a diligent search to determine the names and addresses of creditors of the decedent who are reasonably ascertainable, even if the claims are unmatured, contingent, or unliquidated, and shall promptly serve a copy of the notice on those creditors. Impracticable and extended searches are not required.*” Service is not required on any creditor who has filed a claim in the proceedings or whose claim has been paid in full, or whose claim is listed in a personal representatives’ timely filed proof of claim.

***What is a diligent search?***

The “search” may vary from case to case; some suggestions are as follows:

1. *Publish Notice to Creditors.*
2. *The decedent’s mail should immediately be directed by U. S. Postal Service change of address card to the office of the personal representative or attorney, so that it may be reviewed.*
3. *The decedent’s wallet and/or purse should be inspected, with letters directed to credit card companies and department stores advising them of the need to file a claim if there is an amount owing, or at least to request a statement indicating the balance, if any, on the account.*

4. *Inquiries should be made of immediate family members (which, depending on the circumstances could, either in default thereof or in addition thereto, extend to neighbors and/or business associates) concerning the debts of the decedent, potential claims resulting from activities, investments, accidents, family relationships and/or business transactions.*

5. *Decedent's income tax returns for three years prior to his date of death should be reviewed.*

6. *Decedent's bank statements, canceled checks, bank books and bank notations for at least one year prior to date of death should be reviewed.*

7. *Inquiries should be made of the attending physician as to whether there were other consulting physicians or other hospitalizations or treatments.*

8. *A name search might be run, which would include UCC, and judgment and lien information. (If the decedent recently moved into the area, it might be necessary to do such a search in his former home county or state).*

9. *Inquiry could be sent to the Department of Motor Vehicles to review the driving record for automobile accidents and potential obligations.*

10. *A credit report might be ordered.*

When in doubt, it would appear the best policy is to make further inquiry or give actual notice; however, impracticable and extended searches are not required. It is good practice to make a written record for the file of what steps were taken to determine ascertainable creditors.

At the expiration of the claims' period, you will be required to file a Statement Regarding Creditors, a sample copy of which is attached.

*This client memorandum is intended as general information only.*

JOHNSON, POPE, BOKOR, RUPPEL & BURNS, LLP

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