II.

Olide (as lessor) leases his farm, Belle Terre, to Pascal (as lessee) for a year at a rent of $60,000. Olide records the act of lease in the conveyance records and in the mortgage records that same day. The next day Pascal borrows $100,000 from Cajun Bank (Cajun). To secure repayment of the loan, Pascal grants Cajun a valid mortgage on his lease of Belle Terre. The mortgage is duly and promptly recorded that same day. Pascal then hires Jean Sot to plant a soybean crop on Belle Terre, for which Pascal is to pay Jean Sot $10,000. At the same time, Pascal buys a new tractor from Mermentau Farm Equipment (MFE), on credit, for $20,000. To plant the crop, Jean Sot uses seeds, fertilizer, etc., purchased by Pascal, on credit, from Gator Hardware (Gator), in the amount of $10,000. After that, Pascal borrows $30,000 from Evangeline Finance (Evangeline). To secure repayment of this loan, Pascal grants Evangeline a security interest on both the soybean crop and the tractor. Evangeline’s security interests are duly perfected by means of appropriate filings. Then Pascal contracts the latest strain of “bird flu”, requiring that he be hospitalized at the Gueydan General Hospital (GGH). During his two-week stay there, Pascal racks up charges for doctors’ and nurses’ services and for medicines in the amount of $20,000. In the meantime, the tractor breaks down. With Pascal’s permission, Jean Sot takes the tractor to “Tinkus”, who repairs it for a charge of $1000 ($600 for labor, $400 for parts). After two weeks in the hospital, Pascal dies. He is buried by the Vermilion Funeral Home (VFH) for a charge of $5,000. Tinkus still has (precarious) possession of the tractor. Pascal hadn’t yet paid anybody anything.

A. The soybean crop. – Answer these questions:

1. Who has security in the soybean crop? What kind of security is it?

   1 Olide: lessor’s privilege. See CC arts. 3217(3), 3219, & 2707, par. 2.
   2 Jean Sot: farm worker’s privilege. See CC art. 3217(3).
   3 Gator: farm supplier’s privilege. See CC art. 3217(1).
   4 Evangeline: UCC Article 9 “ag” security interest. See R.S. 10:9-203.
   5 GGH: last illness privilege. See CC arts. 3191(3) & 3199.
   6 VFH: funeral privilege. See CC arts. 3191(1) & 3192.

2. Among those who have security in the soybean crop, does any of them now need to “do anything” in order to make his security effective against third parties? If so, who is that and what must he / they do?

   Yes. Olide, Jean Sot, and Gator each needs to make an “ag filing” per Title 3 with any Clerk of Court. See R.S. 10:9-311(a)(2); 3:3654 & 3656; & 9:4521. All other securities are already perfected.
3. Assume that the soybean crop is sold at a judicial sale at the request of the secured creditors. Who gets what? Why? Assume that whatever you concluded, in your answer to “2”, had to be “done” to make this or that security effective against third persons was, in fact, done.

1 Jean Sot: $10,000 unpaid price for labor. His farm worker’s privilege ranks first. See R.S. 9:4521(1).

2,3,4,5
In a vicious circle: Olide: $60,000 unpaid rent; Evangeline: $30,000 unpaid loan; Gator: $10,000 unpaid price of goods; VFH: $500 unpaid price of services. (a) Olide’s lessor’s privilege ranks after the farm worker’s privilege. See R.S. 9:4521(2) & (1). (b) Evangeline’s Article 9 security interest ranks after Olide’s lessor’s privilege. See R.S. 9:4521(3) & (2). (c) Gator’s farm supplier’s privilege ranks after the Article 9 security interest. See R.S. 9:4521(4) & (3). (d) (i) VFH’s funeral privilege should rank after both Jean Sot’s farm worker’s privilege and Gator’s farm supplier’s privilege. Why? Well, because of the principle that general privileges rank after special privileges. See CC art. 3254. Whereas Gator’s farm supplier’s privilege is special, VFH’s funeral privilege is general. (ii) VFH’s funeral privilege should also rank after Evangeline’s Article 9 security interest. Why? Well, with few exceptions, Article 9 security interests outrank privileges. See R.S. 9:4770 & 10:9-322(h). None of those exceptions applies to VFH. See R.S. 10:9-333. (e) But there’s a problem with the “shoulds” of (d), namely, that per CC art. 3257 VFH’s funeral privilege is supposed to rank before Olide’s lessor’s privilege! If that’s so, then VFH’s funeral privilege should also outrank Evangeline’s Article 9 security interest and Gator’s farm supplier’s privilege, for they are outranked by Olide’s lessor’s privilege! (f) In any event, the funeral privilege, whatever its rank, is capped at $500 in cases such as this. See CC art. 3194.

6 GGH: $20,000 unpaid price of services. (a) See 2,3,4,5 (d) for an explanation of why GGH’s last illness privilege, a general privilege, ranks after Jean Sot’s farm worker’s privilege, Olide’s lessor’s privilege, Evangeline’s Article 9 security interest, and Gator’s farm supplier’s privilege. (b) Among general privileges, the last illness privilege ranks after the funeral privilege. See CC art. 3254. Thus, GGH’s last illness privilege ranks after VFH’s funeral privilege.

7 Cajun: $100,000 unpaid loan; MFE: $20,000 unpaid
price of goods; Tinkus: $1,000 unpaid price of services; and VFH: $4,500 unpaid price of services. (a) Unsecured creditors, such as Cajun, MFE, and Tinkus (they have no security in the collateral at issue here, i.e., the crop) and VFH (it’s unsecured in the crop as to this part of the debt it’s owed), rank after secured creditors. See CC art. 3183. (b) Among themselves, unsecured creditors are paid ratably. See CC art. 3183.

B. The tractor. – Forgetting Sub-Part A, answer these questions:

1. Who has security in the tractor? What kind of security is it?

   2. MFE: vendor’s privilege. See CC art. 3217(7) & 3227.
   3. Jean Sot: farm worker’s privilege. See CC art. 3217(3).
   5. Tinkus: (1) artisan’s privilege, see CC art. 3217(2), & (2) farm repairman’s privilege, see R.S. 9:4502(A)(2).
   6. GGH: last illness privilege. See CC arts. 3191(3) & 3199.
   7. VFH: funeral privilege. See CC arts. 3191(1) & 3192.

2. Among those who have security in the tractor, does any of them now need to “do anything” in order to make his security effective against third parties? If so, who is that and what must he / they do?

   No. All securities are already perfected.

3. Assume that the tractor is sold at a judicial sale at the request of the secured creditors. Who gets what? Why? Assume that whatever you concluded, in your answer to “2”, had to be “done” to make this or that security effective against third persons was, in fact, done.

   1. Tinkus: $600 unpaid price for labor. (a) With few exceptions, privileges rank after Article 9 security interests. See R.S. 9:4770 &10:9-322(h). One of those exceptions – that for “possessory” privileges – applies to Tinkus’ artisan’s privilege. See R.S. 10:9-333. But none of the other privilege holders is able to avail himself or itself of this or any other such exception. See R.S. 10:9-333. Thus, Tinkus’ artisan’s privilege outranks Evangeline’s security interest. And Evangeline’s Article 9
security interest, in turn, outranks all the privileges of all of the other parties. (b) The artisan’s privilege is limited to unpaid labor charges. See CC art. 3217(2).

2 Evangeline: $30,000 unpaid loan. (a) See 1(a) for an explanation of why Evangeline’s security interest ranks after Tinkus’ artisan’s privilege, but before all the other privileges. (b) An article 9 security interest outranks a repairman’s privilege. See R.S. 9:4502(B). Thus, Evangeline’s security interest outranks Tinkus’ repairman’s privilege.

3,4,5,6,7 In two vicious circles: Olide: $60,000 unpaid rent; MFE: $20,000 unpaid price of goods; Tinkus: $400 unpaid price for parts; Jean Sot: $10,000 unpaid price of labor; VFH: $500 unpaid price of services. What a mess!

I. First circle. – (a) Olide’s lessor’s privilege, MFE’s vendor’s privilege, and Tinkus’s repairman’s privilege all rank after (i) Tinkus’ artisan’s privilege and (ii) Evangeline’s security interest. Why? Because, as you will recall, Tinkus’ artisan’s privilege outranks Evangeline’s security interest and Evangeline’s security interest, in turn, outranks all other security. See 1(a) & 2(b). (b) But ranking these three securities – Olide’s lessor’s privilege, MFE’s vendor’s privilege, and Tinkus’ repairman’s privilege – inter se is problematic, thanks to the following irreconcilable ranking rules. (i) A lessor’s privilege outranks a vendor’s privilege. See CC art. 3263. Thus, Olide should outrank MFE. (ii) A vendor’s privilege outranks a repairman’s privilege. See R.S. 9:4502(B). Thus, MFE should outrank Tinkus (qua repairman). (iii) A repairman’s privilege outranks a lessor’s privilege. See R.S. 9:4502(B). Thus, Tinkus should outrank Olide. Et cetera . . .

II. Caught in the middle. – Jean Sot’s farm worker’s privilege should rank next. (a) It should rank after Evangeline’s security interest for the reason given in 1(a). (ii) It should also rank after Tinkus’ repairman’s privilege. Why? Because the repairman’s privilege outranks all privileges other than the vendor’s privilege. See R.S. 9:4502(B). (iii) It should also rank after MFE’s vendor’s privilege. Why? Because the vendor’s privilege outranks the repairman’s privilege (which outranks all other privileges). See R.S. 9:4502(B). (iv) It should also ranks after Olide’s lessor’s privilege. Why? The lessor’s privilege outranks the vendor’s privilege (which outranks
the repairman’s privilege, which outranks all other privileges). See CC art. 3263.

III. The second circle. – (a) VHF’s funeral privilege definitely ranks after Evangeline’s Article 9 security interest. Why? Well, with few exceptions, Article 9 security interests outrank privileges. See R.S. 9:4770 &10:9-322(h). None of those exceptions applies to VHF. See R.S. 10:9-333. (b) Further, from what has been said so far, VHF’s funeral privilege should rank next, after Jean Sot’s farm worker’s privilege and all those privileges that rank above Jean Sot’s farm worker’s privilege. Why? Because of the principle that general privileges rank after special privileges. See CC art. 3254. Whereas Gator’s farm supplier’s privilege, like the others, is special, VHF’s funeral privilege is general. (c) But there’s a problem with this theory, one that has implications not only for the rank of Jean Sot’s farm worker’s privilege, but also for the ranks of Olide’s lessor’s privilege, MFE’s vendor’s privilege, and Tinkus’ repairman’s privilege. What’s the problem? The rule of CC art. 3257, which requires that VHF’s funeral privilege rank before Olide’s lessor’s privilege! (d) In any event, the funeral privilege, whatever its rank, is capped at $500 in cases such as this. See CC art. 3194.

8 GGH: $20,000 unpaid price of services. (a) See 3,4,5,6,7(III)(a) for an explanation of why GGH’s last illness privilege ranks after Evangeline’s security interest. (b) See 3,4,5,6,7(III)(b) for an explanation of why GGH’s last illness privilege, a general privilege, ranks after the special privileges of Jean Sot, Olide, MFE, and Tinkus. (c) Among general privileges, the last illness privilege ranks after the funeral privilege. See CC art. 3254. Thus, GGH’s last illness privilege ranks after VFH’s funeral privilege.

9 Cajun: $100,000 unpaid loan, and VFH: $4500 unpaid price of services. Unsecured creditors, such as Cajun (it has no security in the collateral at issue here, i.e., the tractor) and VFH (it’s unsecured as to this part of the debt it’s owed), rank after secured creditors. See CC art. 3183.