Ranking-of-Privileges Problems

I.

Olide sells his farm, Belle Terre, to Pascal for $150,000, on credit. Oldie records the act of sale in the conveyance 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 Belle Terre. The mortgage is duly and promptly recorded that same day. Two days after that (three days after the sale), Olide records the act of sale in the mortgage records. 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 Cajun: conventional mortgage. See CC arts. 3287, 469, & 463.
   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. 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 Evangeline: $30,000 unpaid loan. Its Article 9 security interest ranks after the farm worker’s privilege. See R.S. 9:4521(3) & (1).

3 Gator: $10,000 unpaid price of goods. Its farm supplier’s privilege ranks after the Article 9 security interest. See R.S. 9:4521(4) & (3).

4 VFH: $500 unpaid price of services. (a) General privileges rank after special privileges. See CC art. 3254. Thus, Jean Sot’s farm worker’s privilege and Gator’s farm supplier’s privilege, both special privileges, outrank VHF’s funeral privilege, a general privilege. (b) 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. Thus, VHF’s funeral privilege ranks after Evangeline’s Article 9 security interest. (c) Among general privileges, the last illness privilege ranks after the funeral privilege. See CC art. 3254. (d) The funeral privilege is capped at $500 in cases such as this. See CC art. 3194.

5 GGH: $20,000 unpaid price of services. (a) See 4(a) & (b) for an explanation of why GGH’s last illness privilege, a general privilege, ranks after the securities in 1 - 3. (b) See 4(c) for an explanation of why GGH’s last illness privilege ranks after VFH’s funeral privilege.

6 Cajun: $100,000 unpaid loan. (a) Mortgages rank after privileges. See CC art. 3186. Thus, Cajun’s mortgage ranks after Jean Sot’s farm worker’s privilege, Gator’s farm supplier’s privilege, VFH’s funeral privilege, and GGH’s last illness privilege. (b) Mortgages rank after Article 9 “ag” security interests. See R.S. 10:9-334(i). Thus, Cajun’s mortgage ranks after Evangeline’s Article 9 security interest.

7 MFE: $20,000 unpaid price of goods; Tinkus: $1,000 unpaid price of services; and VFH: $4500 unpaid price of services. (a) Unsecured creditors, such as 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?

1. MFE: vendor’s privilege. See CC art. 3217(7) & 3227.
2. Jean Sot: farm worker’s privilege. See CC art. 3217(3).
4. Tinkus: (1) artisan’s privilege, see CC art. 3217(2), & (2) farm repairman’s privilege, R.S. 9:4502(A)(2).
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 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 MFE: $20,000 unpaid price of goods. (a) See 1(a) for an explanation of why MFE’s vendor’s privilege ranks after Evangeline’s security interest. (b) The vendor’s privilege outranks the repairman’s privilege, which, in turn, outranks all other privileges. See R.S. 9:4502(B). Thus, MFE’s vendor’s privilege outranks Tinkus’ repairman’s privilege and all the others as well.

4 Tinkus: $400 unpaid price for parts. (a) See 1(a) for an explanation of why Tinkus’ repairman’s privilege ranks after Evangeline’s security interest. (b) See 3(b) for an explanation of why Tinkus’ repairman’s privilege ranks after MFE’s vendor’s privilege.

5 Jean Sot: $10,000 unpaid price of labor. (a) See 1 (a) for an explanation of why Jean Sot’s farm worker’s privilege ranks after Evangeline’s security interest. (b) The repairman’s privilege outranks all privileges other than the vendor’s privilege. See R.S. 9:4502(B). Thus, Jean Sot’s farm worker’s privilege ranks after Tinkus’ repairman’s privilege.

6 VFH: $500 unpaid price of services. (a) See 1(a) for an explanation of why VFH’s funeral privilege ranks after Evangeline’s security interest. (b) General privileges rank after special privileges. See CC art. 3254. Thus, VFH’s funeral privilege, a general privilege, ranks after both of Tinkus’ privileges, MFE’s vendor’s privilege, and Jean Sot’s farm worker’s privilege, all special privileges. (c) Among general privileges, the last illness privilege ranks after the funeral privilege. See CC art. 3254. (d) The funeral privilege is capped at $500 in cases such as this. See CC art. 3194.

7 GGH: $20,000 unpaid price of services. (a) See 1(a) for an explanation of why GGH’s last illness privilege ranks after Evangeline’s security interest. (b) See 6(b) for an explanation of why GGH’s last illness privilege, a general privilege, ranks after the special privileges of 1, 3, 4, & 5. (c) See 6(c) for an explanation of why GGH’s last illness privilege ranks after VFH’s funeral privilege.

8 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.

C. The land. – Forgetting Sub-Parts A & B and assuming (contrary to reality) that, after the liquidation of the soybean crop, the tractor, and Pascal’s other moveables, all of Pascal’s debtors
remain completely unsatisfied, answer the following questions:

1. Who has security in Belle Terre? What kind of security is it?

1 Olide: vendor’s privilege. See CC art. 3249(1).
2 Cajun: conventional mortgage. See CC arts. 3287.
3 GGH: last illness privilege See CC arts. 3252(3) & 3199.
4 VFH: funeral privilege. See CC arts. 3252(1) & 3192.

2. Among those who have security in Belle Terre, 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 have already been perfected.

3. Assume that Belle Terre 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 Olide: $100,000 unpaid price. The vendor’s privilege on immovables, when properly perfected, outranks all other privileges (save for those of various constructors). See CC art. 3269.
2 VFH: $500 unpaid price of services. (a) Among general privileges, the funeral privilege outranks the last illness privilege. See CC art. 3254. (b) The funeral privilege is capped at $500 in cases such as this. See CC art. 3194.
2 GGH: $20,000 unpaid price of services. (a) See 1 for an explanation of why GGH’s last illness privilege ranks after Olide’s vendor’s privilege. (b) See 2(a) for an explanation of why GGH’s last illness privilege ranks after VFH’s funeral privilege.
4 Cajun: $100,000 unpaid loan. Mortgages rank after privileges. See CC art. 3186. Thus, Cajun’s mortgage ranks after VFH’s funeral privilege, GGH’s last illness privilege, and Olide’s vendor’s privilege.
5 Jean Sot: $10,000 unpaid price of labor; MFE: $20,000 unpaid price of goods; Gator: $10,000 unpaid price of goods; Evangeline: $30,000 unpaid loan; and VHF: $4500 unpaid price of services. (a) Unsecured creditors, such as the first four of these five (they have no security in the collateral at issue here, i.e, the land) and such as VFH (it’s unsecured 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.