Spatula City, Inc. (SC) is a Delaware corporation. Its principal place of business—a massive retail superstore that sells only spatulas—is in Richmond, Kentucky (which is in Madison County). SC has been having financial problems due to the decline in the use of spatulas over the 80 years or so. SC’s visionary CEO has decided to diversify its business by branching out into the burgeoning ladle and whisk lines of business. To that end, SC has arranged to borrow money from two banks: Calipari Credit Union (CCU) and Stoops National Bank (SNB).

SC’s security agreement with CCU was signed on July 6, 2017. The agreement granted CCU a security interest in “all equipment and inventory, whether currently owned or later acquired,” in order to secure “all obligations, including but not limited to a $100,000 initial loan and all subsequent loans to SC from CCU, including loans of up to $50,000 per month, which will be advanced solely at CCU’s discretion.” CCU also filed a UCC financing statement covering the stated collateral with the Secretary of State of Delaware that same day, July 6. Also on that same day, CCU advanced the $100,000 initial loan to SC. The debtor’s name on the financing statement was simply “Spatula City.”

SC signed a document on July 5 stating: “SNB is hereby authorized to file a financing statement (and any other necessary documents) covering all of SC’s assets.” The debtor’s name on the financing statement was written thus: “Spatula City, Inc.” Immediately, SNB filed a financing statement in the appropriate office(s). Several days later, on July 8, SC’s security agreement with SNB was signed. The agreement granted SNB a security interest in “all the debtor’s assets, whether currently owned or later acquired” in order to secure a $100,000 loan. SNB advanced the $100,000 that same day.

a. When—if ever—did CCU’s security interest attach? When—if ever—did CCU’s security interest become enforceable? (6 minutes)

b. When—if ever—did SNB’s security interest attach? When—if ever—did SNB’s security interest become enforceable? (6 minutes)

c. Is it a problem that CCU didn’t have any explicit authorization to file a financing statement, as SNB did? If not, why not? (5 minutes)

d. Leave aside any issues involving fixtures or fixture filings. Is it a problem that CCU filed its financing statement only in Delaware and not in any other states or places? If not, why not? (5 minutes)

e. Is it a problem that SNB filed its financing statement when it did—i.e., before the security agreement was signed and the money advanced? If not, why not? (5 minutes)

f. Who has priority as between CCU and SNB in SC’s inventory, and why? (11.5 minutes)

g. Assume for this sub-question that CCU’s security interest (as per the security agreement described above) is attached, enforceable, and perfected, all no later than August 1. An unsecured creditor levies on some of PC’s equipment on October 1, 2017, and immediately notifies CCU. CCU nonetheless keeps lending: $50,000 on November 1, 2017, and $50,000 on December 1, 2017. Does CCU have priority over this lien creditor as to any or all of these new obligations? (11.5 minutes)
**Question 2 (55 minutes)**

*Add to the facts of the previous question:*

All loans with SNB have been paid off, and SC and SNB have amicably parted ways and terminated all of their legal relationships.

CCU remains SC’s primary lender. For this question, please assume that CCU has an enforceable, perfected security interest in SC’s inventory.

Bluegrass Kitchen Supply (BKS) is SC’s primary supplier of whisks, ladles, and spatulas. (SC also has a custom-spatula business that has been doing well of late.) Traditionally, BKS has supplied SC on an unsecured basis, and has received payments roughly every 60 days, per longstanding invoicing and payment practices. But lately, BKS has become nervous. Payments seem to be taking longer to trickle in from SC, and SC’s parking lot isn’t as full as it used to be.

The holiday season is SC’s high point in terms of sales, because ladles, whisks, and spatulas make such great gifts, particularly for children. SC has begun ramping up orders in anticipation. But that makes BKS nervous. BKS wants to control the risk of SC (and/or CCU) leaving BKS unpaid for the large holiday shipments.

BKS thought about requiring SC to make immediate payments for deliveries, or getting CCU to advance funds directly to BKS to fund incoming inventory. But SC’s visionary CEO has already told BKS that won’t work—they can’t spare the cash at this point, although she assures you that they’ll be awash in money by the end of the season. In the meantime, however, she’s open to other ways of protecting you, because, as she put it:

CCU can be sneaky. I’m worried they might pressure my board of directors to fire me and then install a puppet CEO in my place, who will do whatever it takes to help them, regardless of its effect on CS or BKS. For instance, they’ve been known to encourage their debtors to “feed the lien” and then either foreclose on the collateral or encourage a bankruptcy filing. Anyway, I can tell you for sure that CCU will never agree to anything that is good for you or any other creditor.

BKS wants to discuss other options you might have in mind, and what you think might happen in this “feed the lien” scenario. So BKS’ President asks you these questions:

**a.** What does “feeding the lien” mean, in plain terms? Should we be worried about it? Would a court condone the sort of behavior that the CEO suggests CCU might engage in? *(15 minutes)*

**b.** Why can’t we do what car dealers do, when they sell you a car on credit—i.e., loan you the purchase money to buy the car—and then repossess the car if you don’t pay? If we did that kind of thing—which I don’t know the legal term for—would that make us first in line to repossess the stuff we supply SC with? *(10 minutes)*

**c.** I’ve also heard that if you ship stuff out and it turns out you shipped it to someone who is out of money or declares bankruptcy, you can sometimes get it back. Would that help? *(9 minutes)*

**d.** What about this great idea: We agree with SC that when we ship them the stuff, it’s not really theirs, it’s still ours, until they have sold it to the end user and paid us for it. Kind of like a consignment shop or an unusual kind of installment contract or something. Would that work? *(10.5 minutes)*

**e.** Sometimes you can use accounts receivable as collateral, right? Would that work here? *(10.5 minutes)*
Question 3 (30 minutes)

This question is not intended to incorporate any facts or details from prior questions.

Bluegrass Kitchen Supply’s factory is in Lexington, KY, a lovely town in Fayette County. In order to fund its building of its facility several years ago, BKS took out a large mortgage loan from Mitchell National Bank (MNB). MNB’s mortgage includes the real property, “all improvements thereto, and all fixtures thereon, whether presently existing or coming to exist hereafter.” The mortgage was duly recorded in the Fayette county real property records.

BKS contracted with Cann Construction, which builds custom, high-tech, high-security fences and gates, to help protect its facility. (In the cut-throat kitchen-utensil-manufacturing business, break-ins are frequent, as competitors seek to discover closely held trade secrets.) Cann built a high-tech, heavy-duty fence around the facility by placing the heavy, metal fence into trenches (which stretched several feet underground to prevent intruders from tunneling in), and mounting the large, technology-laden custom fence posts into concrete poured into sizeable pits approximately every ten feet.

Cann completed the work a little over a month ago, but Cann hasn’t been paid yet. It was quite an expensive process, since Cann had to front the cost of both the fence (and related materials) and the labor. Cann thinks that BKS has run into some hard times and is worried that BKS might file bankruptcy or that MNB might take action against BKS, and prejudice Cann’s interests in some way. Cann thinks there might be some improvement or renovation underway (or recently completed) inside the facility but isn’t sure—BKS is very secretive about its facility, as mentioned above. Aside from the information that has been given to you about MNB, no other searches of public records have been conducted.

Cann has come to you for legal counsel. What do you advise? What are the advantages, disadvantages, risks, strategic possibilities, etc., that you see in the different possible approaches here?
Question 4 (45 minutes)

This question is not intended to incorporate any facts or details from prior questions.

A celebrity chef buys a diamond-encrusted custom spatula from Spatula City with a market value of approximately $90,000, to use at his restaurant when he cooks. Spatula City takes a valid and perfected purchase money security interest in the spatula, securing an obligation of $20,000. The chef had already borrowed money to fund his extravagant lifestyle, so there was an earlier, attached and perfected, non-purchase money security interest on “all spatulas, whether currently owned or hereinafter acquired, and used in the business of [the chef],” in favor of Murray National Bank, securing an obligation of $50,000. The chef has only one unsecured creditor, who is owed, in total, $80,000.

Shortly after the chef purchases the spatula, the unsecured creditor (who is your client) tries to levy on it. The sheriff, writ of execution in hand, heads toward the chef’s home to seize the spatula and prepare to sell it. The expenses with respect to the sheriff’s sale would be $200, and for this problem, you may ignore interest and any other fees (including attorney’s fees) that creditors might try to add to the amounts they are owed.

a. Please assume that all parties at the sale would value the spatula at its market value, and ignore any issues about credit bidding. Please answer the following questions:
   • How much would the winning bid be?
   • Where would the sales proceeds go?
   • Which liens—if any—would be discharged in the sale? (18 minutes)

b. Add this to the facts from a.: Before the sheriff can actually levy, the chef files for Chapter 7 bankruptcy. It turns out that the chef has no non-exempt assets for the trustee to administer—aside from the spatula. Ignore any fees or expenses related to the bankruptcy, including the trustee’s fees and so on. How much can your client expect to receive in the bankruptcy? (12 minutes)

c. Add this to the facts from a. and b.: It turns out that a lawyer who had never taken Secured Transactions was responsible for perfecting SC’s interest in the spatula, and failed to do so. Ignore any fees or expenses related to the bankruptcy, including the trustee’s fees and so on. What will happen next (in other words, who will likely take legal action to strip SC’s lien off the property, and under what authority)? How much can your client expect to receive in the bankruptcy now? (15 minutes)