<u>Fixture Priority Problems</u>

1. Norman L. Johnson and Gayfred Dorothea McNabb Johnson reside in a large mansion in the Gold Coast neighborhood of Chicago. The successors of "Old Money," the Johnsons own the mansion free and clear of any mortgage or other encumbrance. The mansion is elegantly decorated with fine furnishings and lighting. In the formal dining room, for example, hangs an antique crystal chandelier valued at approximately $50,000. In January 2011, the Johnsons applied for and received a $50,000 loan from Hibernia National Bank. The Johnsons signed a promissory note evidencing the indebtedness, and they signed a security agreement granting Hibernia a security interest in their dining room chandelier. Hibernia properly perfected this security interest by filing a UCC-1 financing statement in the Illinois Secretary of State's office. The financing statement described the chandelier in great detail, but it said nothing about the mansion or the land on which the mansion and chandelier are located.

In early October 2011, the Johnsons filed a joint Chapter 7 bankruptcy petition.

a) If the Johnsons' trustee in bankruptcy claims an interest in the chandelier, will Hibernia's security interest have priority over the trustee's interest? Why or why not?

b) Suppose that the Johnsons had granted a mortgage in their home and the land on which it stands to Equibank, which the bank properly recorded six months after Hibernia had perfected its security interest in the chandelier. Which interest has priority over the chandelier, Equibank's mortgage or Hibernia's security interest?

c) Would your answer to the last question change if Hibernia had made a proper and complete "fixture filing" with respect to the chandelier? How would Hibernia have made a "fixture filing," (i.e., how does a "fixture filing" differ from a "normal" filing)?

d) Would your answer to the last question change if Equibank recorded its mortgage before Hibernia made its "fixture filing"?

e) Assuming Equibank recorded its mortgage before Hibernia made its "fixture filing," would your answer to the last question change if the Johnsons had borrowed the $50,000 from Hibernia in order to buy the chandelier and had in fact used the loan money to buy the chandelier?

2. In January, Zeb purchased an abandoned gas station (the lot and improvements upon it) in Chicago that he intended to remodel into a convenience store.

On May 1, Zeb borrowed $50,000 from Bank to finance the remodeling, and, to secure this debt, he gave Bank a deed of trust (construction mortgage) that was properly recorded in the real property records of Cook County, Illinois, on May 2.

On June 1, Zeb bought 150 sheets of wallboard for $2,000 on credit from Gypsum Co. He intended to use the wallboard for partitioning rooms in the remodeled store. Gypsum Co. secured this debt with a security agreement in which Zeb gave a security interest that was reflected in a document describing the debtor, the secured party, the amount of and the type of collateral (wallboard) and the legal description of the gas station property. On June 3 Gypsum Co. filed the document in the real property records of Cook County, Illinois. The wallboard was installed later during the month of June.

On June 15, Zeb bought two sinks and commodes for $1,000 on credit from A-One Plumbing for the restrooms in the building. A-One secured this debt with a security agreement in which Zeb gave a security interest that was reflected in a document describing the debtor, the secured party, the amount and type of collateral (the sinks and commodes), and the legal description of the gas station property. On June 20, A-One filed the document in the real property records of Cook County, Illinois. The sinks and commodes were permanently installed on June 18.

On June 29, Zeb bought a credit card verification machine/reader for use in the convenience store from Credit Equipment Co. on credit for $2,500. The parties executed a security agreement giving Credit Equipment Co. a security interest in the machine. On June 30, Credit Equipment Co. filed a financing statement with the Illinois Secretary of State. The machine was installed in July. The machine and its metal conduit were bolted onto a built-in counter but were readily removable by unscrewing the bolts.

On July 10, Zeb bought fluorescent lighting appliances from Light Co. on credit for $1,900. The parties executed a security agreement giving Light Co. a security interest in the appliances. The appliances were installed later on July 14. On July 20, Light Co. filed a financing statement with the Illinois Secretary of State.

On July 15, Finance Co. obtained a judgment against Zeb for an unpaid loan. On August 20, Finance Co. properly recorded an abstract of the judgment in the real property records of Cook County, Illinois.

Which of the following creditors has the superior security interest under the Illinois UCC as between:

a. Bank and Gypsum Co. with respect to the wallboard? Explain Fully.

b. Bank and A-One Plumbing with respect to the two sinks and two commodes? Explain Fully.

c. Bank and Credit Equipment Co. with respect to the credit card verification reader/machine? Explain fully.

d. Finance Co. and Light Co. with respect to the fluorescent lighting appliances? Explain fully.