

## PROBLEM QUESTION ANSWERS (3): THE ISSUE

SL: Hi, welcome back. I'm Sabrina and this is the Quick Guide to Legal Writing. In this episode, you'll learn the language you need to raise issues in an answer to a legal problem question. This is an important skill: when you're answering a problem question, correctly identifying and raising the issues displays your ability to translate an everyday situation into the language of the potential legal problems to be addressed.

SL: In this episode, you'll learn two different ways of raising issues: 1) raising the issue explicitly: using an indirect question with the word 'whether'; 2) raising the issue implicitly: providing a tentative opinion using the modal 'may' and other phrases.

SL: Let's turn to the example problem question that we introduced in episode 1, the case of Susan and the sizzling hair dryer. In that problem, Susan suffered physical injury when the hairdryer she was using caused her hair to catch fire.

SL: The key issues are: 1) whether Hair Production Co., the manufacturer, is liable for Susan's injury in an action for negligence; and 2) whether Hair Goods, the retailer, is liable for Susan's injury in an action for breach of contract.

SL: In your answer, you could introduce the issue in an explicit way, like this:

EN: The first issue to be considered is whether Hair Production Co. is liable in negligence for Susan's injury.

SL: This indirect question structure uses a subject, a verb and a dependent clause introduced by the word 'whether'. The word order of the dependent clause is the same as an ordinary sentence: subject then verb.

SL: A second way to introduce an issue is to use a tentative opinion, using the modal verb 'may' or 'might', like this:

EN: Hair Production Co. may be liable in negligence for Susan's injury.

SL: Here, the issue is not explicitly signaled. Instead, it is implicitly raised when the tentative opinion is provided. Note the usage of the modal verb 'may'. Modal verbs like 'may' are always followed by the base form or infinitive form of the verb, for example, 'may be'.

SL: You can also use other modal phrases to raise the issue implicitly.

EN: 1) It is possible that Hair Production Co. is liable in negligence for Susan's injury. 2) It is likely that Hair Goods is liable in breach of contract for Susan's injury.

SL: Here, the phrase 'It is possible that' is followed by a subject then a verb. The phrase 'It is likely that' is also followed by a subject then a verb.

SL: Of course, the second of these phrases shows a stronger commitment or belief. So, remember to choose your words carefully. Okay, let's review. When you want to raise an issue in a legal problem question, there are two possible strategies. Strategy 1 is to raise the issue explicitly. You use an indirect question with the word 'whether', like this:

EN: The first issue to be considered is whether Hair Production Co. is liable in negligence for Susan's injury.

SL: Strategy 2 is to raise the issue implicitly. You provide a tentative opinion using the modal verb 'may', like this:

EN: Hair Production Co. may be liable in negligence for Susan's injury.

SL: Here's another alternative:

EN: It is possible that Hair Production Co. is liable in negligence for Susan's injury.

SL: We hope that's helpful. In the next episode, we'll look at how to state the rule in your answer.

Thanks for watching and stay tuned!