PROBLEM QUESTION ANSWERS (8): STATING THE CONCLUSION

EN: Hi, welcome back. I'm Eric and this is the Quick Guide to Legal Writing. In this last episode, we'll look at how to state a conclusion in an answer to a legal problem question. You'll learn how you can hedge your conclusion and make it more tentative by using: lexical verbs like 'it seems', 'it appears'; adjectives like 'likely', 'possible'; modal verbs like 'may', 'might'; and adverbs like 'presumably', 'probably'.

EN: The conclusion summarizes your view as to the legal outcome of a particular action, or for an issue or sub-issue. Be careful how you write your conclusion. Law professors don't like conclusions that are too strong because these tend to overstate the case. And they don't like conclusions that are too weak either: these tend to be unclear. The solution is to give an appropriately worded tentative conclusion. You have to hedge or soften your conclusion. And you have to hedge it just the right amount. Let's take a look at some examples from the story of Susan and the flaming hair dryer. The first way to signal a tentative opinion is to use a lexical verb:

SL: Thus, it appears that there is an implied term of merchantable quality and it was breached. In summary, it seems that Susan will succeed against Hair Production Co. in claiming damages under the tort of negligence.

EN: In the examples, the phrases 'it appears that' and 'it seems that' are used to hedge the conclusion. This is a relatively assertive strategy: the main verb remains strong – 'there is an implied term', 'Susan will succeed'.

EN: Another way to hedge your conclusion is to use adjectives expressing likelihood as in the following examples:

SL: Susan is likely to succeed on the argument that the personal injury was a reasonably foreseeable harm. In summary, it is likely that a claim for breach of the implied term of merchantable quality under the Sale of Goods Ordinance will succeed.

EN: In those examples, the adjective 'likely' is used when expressing a tentative opinion. The

common sentence pattern is either 'subject + is likely to + verb' or 'it is likely that + subject + verb'. You can also choose different adjectives such as 'unlikely' and 'possible'.

EN: A third way to hedge your conclusion is to use modal verbs, like 'may':

SL: In summary, Hair Production Co. may be liable in negligence for Susan's injury. Thus, Susan's actions might not have had any contributing impact on her sustaining the injury.

EN: Here, 'may' and 'might' both make the conclusion tentative. 'May' is stronger than 'might' and is used more often. This strategy is relatively less assertive. The main verb is modified and weakened – 'may be liable', 'might not have had'. Compare this with some of the more assertive strategies:

SL: In summary, it is likely that Hair Production Co. is liable in negligence for Susan's injury. Thus, it appears that Susan's actions have not had any contributing impact on her sustaining the injury.

EN: The final strategy is to use an adverb, like this:

SL: Factual causation has presumably been made out.

EN: Here, the adverb 'presumably' weakens your conclusion and makes it more tentative. Other options are 'possibly', 'probably', and 'arguably'. Here, the adverb appears between the auxiliary and main verb. It can also appear at the beginning of the sentence.

EN: The four hedging strategies that we've just seen can also be combined, as here:

SL: It seems likely that Susan's damages will be reduced due to her contributory negligence.

EN: Here 'seems' combines with 'likely'. Be careful with these combinations: the more hedging devices you use, the weaker your conclusion, and the more likely it is to become unclear.

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EN: Okay, let's review. Today we've talked about several ways to state the conclusion by giving a tentative opinion. They are: lexical verbs, for example, 'it seems', 'it appears'; adjectives, for example, 'likely', 'possible'; modal verbs, for example, 'may', 'might'; adverbs, for example, 'presumably', 'probably'.

SL: Well, this brings us to the end of this episode and also the end of our Quick Guide to Legal Writing. I hope you've enjoyed learning with us and got a lot out of it!

EN: There're also other interesting videos on our website that you don't want to miss. So stay tuned and see you later!

SL: Bye-bye!

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