

When is a Sandwich Not a Sandwich? A Scrumptious Study in Contract Interpretation

The humble sandwich: a culinary creation with origins dating back to the 18th century, when John Montagu, the 4th Earl of Sandwich, purportedly requested meat between slices of bread so he could continue his gambling uninterrupted¹. This convenient food quickly gained popularity and has become a lunchtime staple found in countless variations worldwide. But what exactly constitutes a "sandwich"? This seemingly simple question has sparked surprisingly complex legal battles, particularly in the realm of contract interpretation. This article delves into the legal definition of a sandwich, analyzing various food items through the lens of contract law to determine their "sandwich" status.

The Sandwich Conundrum: Why Definition Matters

At first glance, defining a sandwich may seem trivial. However, the precise definition can have significant legal and commercial implications, potentially impacting financial matters like taxation². Consider a lease agreement for a restaurant space that prohibits another "sandwich shop" from operating within a certain radius. If a taco stand or a hot dog vendor were to open nearby, would this constitute a breach of contract? The answer hinges on the legal interpretation of "sandwich" within that specific contract.

Defining the Sandwich: A Multifaceted Approach

To unravel this culinary puzzle, we will employ a multifaceted approach, drawing upon dictionary definitions, legal precedents, culinary perspectives, and a detailed analysis of the food items in question. It's important to note that there is no single, universally accepted legal definition of a sandwich, which adds to the complexity of this issue³.

Dictionary Definitions

Several dictionaries offer varying definitions of a sandwich. Merriam-Webster defines it as "two or more slices of bread or a split roll having a filling in between"⁵. The Oxford English Dictionary (OED) similarly describes a sandwich as "an article of food for a light meal or snack, composed of two thin slices of bread, usually buttered, with a savoury...filling"¹. While these definitions provide a basic framework, they leave room for interpretation, particularly when considering non-traditional sandwich forms. Interestingly, the OED also includes a definition of "sandwich" that refers to "a man carrying two advertisement boards suspended from the shoulders, one in front and the other behind"¹. This illustrates how the term "sandwich" can be used metaphorically to describe something placed between two other things.

Legal Precedents

Courts have grappled with the definition of a sandwich in various contexts, often with conflicting outcomes. In a 2006 case involving Panera Bread and Qdoba, a Massachusetts court ruled that a burrito does not qualify as a sandwich³. Panera Bread had an exclusivity clause in their lease that prevented another sandwich shop from opening in the same shopping center. When Qdoba, a Mexican restaurant serving burritos, planned to open nearby, Panera Bread argued that burritos were sandwiches and thus violated the agreement. The court, however, disagreed, relying on Merriam-Webster's definition, which emphasized the presence of "two thin pieces of bread"³. This ruling suggests a narrower interpretation of the term "sandwich."

However, a 2024 Indiana court case presented a contrasting perspective. In this case, a restaurant owner sought to open a taco shop in an area zoned for sandwich shops⁴. The court ruled in favor of the restaurant owner, declaring that tacos and burritos are "Mexican-style sandwiches"⁴. This broader interpretation highlights the variability in legal definitions and the importance of considering the specific context and jurisdiction.

These conflicting precedents underscore the need for careful consideration of contractual language and context when determining the "sandwich" status of a food item. The purpose of the contract and the intent of the parties involved play a crucial role in resolving such ambiguities⁶.

Culinary Definitions

Culinary experts generally define sandwiches more broadly than dictionaries. The USDA, for instance, focuses on the proportion of meat to bread, stating that a closed sandwich must have "at least 35% cooked meat and no more than 50% bread"⁸. This definition emphasizes the filling rather than the form of the bread. The British Sandwich Association adopts an even broader definition, encompassing any "form of bread with a filling, generally assembled cold"⁹. This includes wraps and bagels but potentially excludes hot items like burgers.

Furthermore, the state of New York offers a particularly inclusive definition of "sandwich." It defines sandwiches as including "cold and hot sandwiches of every kind that are prepared and ready to be eaten, whether made on bread, on bagels, on rolls, in pitas, in wraps, or otherwise, and regardless of the filling or number of layers"⁹. This definition explicitly includes burritos, gyros, hot dogs, and wraps, demonstrating a wide range of what can be considered a sandwich in a legal context.

The Cube Rule of Food

Adding another dimension to the sandwich debate is the "Cube Rule" of food categorization, a system proposed by a website called Cuberule.com¹⁰. This rule classifies food items based on the number of sides enclosed by a starchy outer layer. Here's a simplified visualization of the Cube Rule:

Category	Description	Example
Salad	No starch	Salad
Toast	Ingredients on 1 starch	Avocado toast
Sandwich	Ingredients between 2 starches	Hamburger
Taco	Ingredients between starch on	Taco

	3 sides	
Sushi	Ingredients wrapped in starch on 4 sides	Sushi
Quiche	Ingredients inside starch on 5 sides	Quiche
Calzone	Ingredients encased in starch on all 6 sides	Calzone

While not a legal or culinary standard, the Cube Rule offers an interesting framework for categorizing food items based on their structure. According to this rule, a hot dog would actually fall under the "taco" category due to the connected nature of the bun. This further illustrates the diverse perspectives on food classification and the challenges in defining a sandwich definitively.

Dissecting the Dishes: A Comparative Analysis

With these various definitions in mind, let's analyze the food items in question, considering key factors like the type of bread, the number of layers, and the method of enclosure:

Food Item	Bread Type	Number of Layers	Filling Type	Sandwich?
Avocado Toast	Sliced bread	1	Avocado	Generally no
Hot Dog	Bun	1 (connected)	Sausage	Debatable
Taco	Tortilla	1 (folded)	Varies	Debatable
Cheeseburger	Bun	2	Patty, cheese	Generally yes
Empanada	Pastry	1 (enclosed)	Varies	Generally no

Bread Type: Sandwiches typically involve bread, but the type of bread can vary. Sliced bread, buns, and rolls are common, while tortillas and pastry dough are less typical.

Number of Layers: The classic sandwich has two distinct layers of bread. However, some definitions allow for a single layer, as in open-faced sandwiches or items with a connected bun.

Method of Enclosure: Sandwiches typically have a filling placed between layers of bread. However, tacos and empanadas involve folding or enclosing the filling within a single layer of dough.

Based on these criteria, the cheeseburger most closely aligns with the traditional definition of a sandwich. Avocado toast, with its single slice of bread, generally falls outside the definition. Hot dogs and tacos present a more ambiguous case, with their single-layer, connected, or folded structures. Empanadas, with their enclosed pastry, are generally not considered sandwiches.

The Social Media Debate

The definition of a sandwich has also been a subject of lively debate on social media platforms⁹. People express diverse and often passionate opinions on what qualifies as a sandwich, with discussions ranging from the classic peanut butter and jelly to more unconventional creations. This highlights the cultural significance of the sandwich and the varying interpretations of this seemingly simple food item.

Conclusion: A Matter of Interpretation and Clarity

Ultimately, the question of whether avocado toast, a hot dog, a taco, a cheeseburger, or an empanada qualifies as a "sandwich" as a matter of contract interpretation depends on a thorough analysis of the specific contract, the intent of the parties, and relevant legal and culinary definitions. While dictionaries, legal precedents, and culinary perspectives provide guidance, the context and purpose of the contract are paramount.

This analysis highlights the complexities that can arise when seemingly simple terms are subject to legal scrutiny. It underscores the importance of clear and precise language in contract drafting to avoid ambiguity and potential disputes. When dealing with potentially ambiguous terms like "sandwich," it's crucial to define the term explicitly within the contract or to provide clear examples of what is included and excluded. This proactive approach can help prevent costly legal battles and ensure that the intent of the parties is accurately reflected in the agreement.

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