

We're all Wieners!

By Reg P. Wydeven
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During lunch, my buddies and I have discussions on such important legal topics as gun control, immigration or gerrymandering. Sometimes, though, we talk about much more important issues, like the age old question of “is a hot dog a sandwich?”

I said no, a hot dog is its own thing, just like a hamburger. My friend, Mike, however, asserted that a sandwich is two pieces of bread or roll with a filling in between, which perfectly describes a hot dog or burger. When I begged to differ, he then asked what I would call a hamburger after swapping out the patty with a chicken breast. A chicken sandwich, I replied. Dang. I sometimes forget that Mike is a genius. He didn't even have to introduce patty melts into evidence.

To further demonstrate this fact, Mike then pointed out that back in the 1800s, hot dogs were known as “Coney Island Sandwiches” or “Frankfurter sandwiches.” I was able to confirm this on the National Hot Dog and Sausage Council's website. While there, though, I also learned that the NHDSC issued a press release that says a hot dog is not a sandwich, for, “It is truly a category unto its own.” Aha! The statement went on to say, “Limiting the hot dog's significance by saying it's ‘just a sandwich’ is like calling the Dalai Lama ‘just a guy.’”

So when lawyers disagree, they look to the law. The U.S. Department of Agriculture publishes a Food Standards and Labeling Policy Book. This defines a sandwich as “a meat or poultry filling between two slices of bread, a bun, or a biscuit.” However, hamburgers and hot dogs are specifically excluded under this definition. Instead, they are identified as “sandwich-like products,” similar to burritos and fajitas.

So I contended that because a hot dog is sandwich-like, it's not technically a sandwich.

Mike countered that Merriam Webster defines a sandwich as “two or more slices of bread or a split roll having a filling in between” or “one slice of bread covered with food.” He further argued that the State of California's tax law references “hot dog and hamburger sandwiches” served from “sandwich stands or booths.”

Mike also asserted that the State of New York's definition of sandwiches includes “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. A sandwich can be as simple as a buttered bagel or roll, or as elaborate as a six-foot, toasted submarine sandwich.”

Without a frank answer, we went right to the top – the U.S. Supreme Court. Last week, Associate Justice Ruth Bader Ginsburg appeared on ‘The Late Show With Stephen Colbert,’ and the host posed the question to her, which he described as one of “the most divisive issues in our country.”

The Notorious RBG quickly replied, “you tell me what a sandwich is and then I'll tell you if a hot dog is a sandwich.” Colbert claimed a sandwich is “two pieces of bread with almost any type of filling in between—as long as it's not more bread.” Ginsburg then asked, “does that include a roll that's cut open but still not completely?” He said yes, because the bread is not split apart on a sub sandwich.

Unfortunately for me, Justice Ginsburg provided the missing link by deciding, “on your definition, yes it is.”

So I guess that's the whole enchilada.