Culinary in the Courtroom: Three Famous Cases Involving Food

Why are tomatoes legally considered a vegetable? How much air is too much in a package of candy? Do you need to have a certain amount of juice in a product to advertise it on the label? These are the kinds of questions that have been answered when food becomes an ingredient in a legal battle. The following are some examples of how a menu of laws settled issues when food-related cases made it all the way to the Supreme Court of the United States.

To Fruit or Not to Fruit?

Although botanically a fruit, when it comes to how they're used in the kitchen, tomatoes are considered a vegetable — and the U.S. Supreme Court agrees. This classification has been solidified in the law thanks to the 1893 case *Nix v. Hedden*, where the high court ruled that for customs purposes, tomatoes are to be taxed as a vegetable.

This question made it to the court because the Port Authority of New York categorized tomatoes as vegetables, which meant there was a 10 percent import tax associated with them. However, since fruit were not taxed, the Nix family, who had a fruit importing business, sued Port of New York collector Edward Hedden in February 1887 to have tomatoes reclassified so they could recoup the money they'd previously paid under protest and avoid the tax in the future.

The court case was a battle of the definitions. The plaintiff's attorney read the definitions for "fruit," "vegetables," "potato," "carrot," "cauliflower," "bean," "cabbage," "parsnip" and "turnip" found in the Webster's, Imperial, and Worcester's dictionaries. In response, the defense read a litany of definitions of

their own — “cucumber,” “eggplant,” “squash,” “pepper” and “pea.”

Ultimately, the court regarded tomatoes in the same way the culinary world does. In the decision, Justice Horace Gray explained the court’s position this way: “Botanically speaking, tomatoes are the fruit of a vine, just as are cucumbers, squashes, beans and peas. But in the common language of the people, whether sellers or consumers of provisions, all these are vegetables which are grown in kitchen gardens, and usually served at dinner in, with, or after the soup, fish, or meats, which constitute the principal part of the repast, and not, like fruits generally, as dessert.”

A Juice By Any Other Name

Pom Wonderful Pomegranate Juice. Pom Wonderful is a privately owned US beverage company based in California.

How much pomegranate juice has to be contained in a product for a company to claim that it's in fact pomegranate juice? Whatever the magic calculation is, POM Wonderful LLC, known for its variety of pomegranate juice products, claimed that The Coca-Cola Company's "Pomegranate Blueberry Flavored Blend of 5 Juices," sold under the Minute Maid brand, did not have enough pomegranate juice to legally call itself that (it was actually 99.4% apple and grape juices).

As a result, POM sued Coca-Cola in 2014, stating that the product's advertising, marketing, and labeling were misleading to customers in violation of the Lanham Act, which prohibits false advertising. As a result, POM claimed, it suffered financially because of the confusion the Minute Maid product created in the public's mind.

In order to prove this claim, POM presented evidence of how the product was labeled versus the actual juice content it contained. The company showed that Minute Maid's label prominently displayed the words "pomegranate blueberry," while the words that indicated the product was a five-juice blend were significantly smaller. Despite highlighting the pomegranate and blueberry juices on the product's label, it only actually had 0.3 percent pomegranate juice and 0.2 percent blueberry juice, as well as 0.1 percent raspberry juice. Meanwhile, the blend had 99.4 percent apple and grape juices, which POM claimed were cheaper products with less nutritional value.

However, Coca-Cola argued that POM engages in some of the very same practices it was accusing the soft drink giant of. Using the unclean hands doctrine (which states that a defendant can use a plaintiff's own

unethical practices as part of its defense), Coca-Cola introduced evidence that POM had made false claims that its products had numerous health benefits — such as the ability to help prevent heart disease and cancer — which could not be medically proven. Also, Coca-Cola claimed that POM's advertising could give consumers "the false impression that its juice products were 'fresh squeezed.'"

In addition, Coca-Cola stated that the Lanham Act did not apply to this case because the Food and Drug Administration's Federal Food, Drug, and Cosmetic Act (FDCA) guidelines, which are designed to prevent food product mislabeling, allowed the Minute Maid packaging. The company claimed that since those regulations superseded any Lanham Act claims, POM had no standing to sue in the first place.

After eight years of fighting in court, a jury sided with Coca-Cola, finding that consumers were not being misled by its product's packaging, no matter how much actual pomegranate juice it contained.

A Whopper of a Claim

Although the air that is found in packaged products is needed in order to keep items safe during manufacturing and distribution, how much is too

much? This was the question the court was tasked with answering when Missouri man Robert Bratton filed a class action lawsuit in 2016 against The Hershey Company for $5 million, claiming that its Whoppers and Reese's Pieces contained so much air, known as slack-fill space, that candy lovers were getting shortchanged.

In fact, Bratton argued that since a box of Whoppers is only 59 percent full and a box of Reese's Pieces is only 71 percent full, it meant that Hershey's packaging practices were "misleading, deceptive and unlawful," causing the company to receive "unjust enrichment" as a result. Furthermore, Bratton said, consumers "suffered an ascertainable loss as a result of defendant's unlawful conduct because the actual value of the products as purchased was less than the value of the products as represented." He also noted that boxes of Good & Plenty did not have this excessive amount of slack-fill space.

However, the judge in the case didn't buy this argument, especially in light of the fact that despite the amount of slack-fill in the boxes, Bratton continued buying the products repeatedly. Over the course of ten years, Bratton purchased 600 boxes of Reese's Pieces and Whoppers, though he was well-aware of how full the boxes of candy were. When U.S. District Judge Nanette K. Laughrey threw the case out, she said, "Mr. Bratton testified that he initially expected the boxes to be full, but at some point he realized that they're not. Although Mr. Bratton claimed to have always clung to his hope that the boxes would be full, he acknowledged that he did not expect the box to be miraculously filled the next time he bought it."

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