

APPENDIX 5. SAMPLE OFFICE MEMOS AND ASSIGNMENT

Appendix 5.B. Sample Memo 1: Contract Interpretation, One Issue

PRIVILEGED AND CONFIDENTIAL MEMORANDUM¹

To: Supervisor
From: Associate
Subject: Downtown Entertainment Matter: Is a Tlayuda a Type of Pizza?
Date: June 1, 2026

I. QUESTION PRESENTED

Did Downtown Entertainment violate the exclusivity provision in its lease with Famous Taco by leasing space to a vendor specializing in tlayudas, given that the exclusivity provision exempted “pizza” vendors?

II. BRIEF ANSWER

No. A court would likely classify tlayudas as pizza because they fit the ordinary meaning of the term and resemble other foods that courts have recognized as pizza. Further, any ambiguity in the exclusivity provision would be construed against Famous Taco because it drafted the provision and a ruling in its favor would restrict business growth.

III. STATEMENT OF FACTS

Downtown Entertainment recently opened a food court in Avalon’s main business district. The first vendor to lease space in the food court was Famous Taco, a popular local restaurant specializing in tacos. During lease negotiations, Famous Taco asked Downtown Entertainment to agree not to lease space in the food court to another taco restaurant. Downtown Entertainment agreed and asked Famous Taco to draft an exclusivity provision for the lease reflecting that agreement. Famous Taco’s attorneys drafted the following provision, which Downtown Entertainment accepted without modification:

¹ The subject matter of this sample memo was inspired by the discussion of White City Shopping Ctr., LP v. PR Rests., LLC, in Professor Susan McMahon’s article, *What We Teach When We Teach Legal Analysis*, 107 MINN. L. REV. 2510 (2023).

Downtown Entertainment agrees that, during the term of this Lease, it will not lease any other space within the food court to any other vendor whose primary business involves the sale of tacos or taco-related products. However, this exclusivity shall not restrict Downtown Entertainment from leasing space to vendors whose primary business is the sale of other types of food, including but not limited to pizza, pasta, sandwiches, or salads.

After finalizing terms with Famous Taco, Downtown Entertainment continued recruiting vendors, including Tia Tina's Tlayudas, a food truck specializing in tlayudas. Originating from Oaxaca, Mexico, tlayudas are large, thin, partially fried or toasted corn tortillas made from nixtamalized corn, topped with myriad toppings, including beans, vegetables, and various cheeses and meats. Under its agreement with Downtown Entertainment, Tia Tina's Tlayudas would park in the food court's parking lot on weekday afternoons and sell only tlayudas.

When Famous Taco learned about Downtown Entertainment's lease with Tia Tina's Tlayudas, it demanded that Downtown Entertainment terminate that lease, claiming that tlayudas are a type of taco and that the lease to Tia Tina's Tlayudas therefore violated the exclusivity provision in Famous Taco's lease. Downtown Entertainment countered that a tlayuda is a type of pizza, making the exclusivity provision inapplicable.

IV. DISCUSSION

Although tlayudas might not be traditional pizzas, a court interpreting Downtown Entertainment's contract with Famous Taco would likely find that the term "pizza" in the exclusivity provision includes tlayudas. Accordingly, it would find that Downtown Entertainment did not violate the provision by leasing space to Tia Tina's Tlayudas. This memo does not address two corollary issues, which are being addressed by other summer associates: whether the food court's parking lot falls within the scope of the exclusivity provision and whether a tlayuda qualifies as a taco or "taco-related product."

Courts interpret a contract term to effectuate the parties' "mutual intention," which can be inferred from the term's "clear and explicit" meaning as understood in its "ordinary

and popular sense.” Hameid v. Nat’l Fire Ins. of Hartford, 31 Cal. 4th 16, 21 (2003).² To determine a word’s “ordinary” meaning, courts consider its dictionary definition and common usage. See White City Shopping Ctr., LP v. PR Rests., LLC, 21 Mass. L. Rptr. 565, 565 (Worcester Super. Ct. 2006) (consulting dictionary definition of “sandwich” to determine whether ordinary meaning of that term includes burritos); see also Nix v. Hedden, 149 U.S. 304, 307 (1893) (classifying, for customs purposes, tomatoes as vegetables despite their botanical classification as fruit because they are considered vegetables “in the common language of the people”).

Pizza is defined as a “dish made typically of flattened bread dough spread with a savory mixture usually including tomatoes and cheese and often other toppings and baked.” Merriam-Webster.com Dictionary (Aug. 10, 2025), <https://www.merriam-webster.com/dictionary/pizza>. Courts that have considered what foods qualify as “pizza” have generally construed the term broadly. For instance, in Cedars Restaurant v. City of Avalon, the Court held that manoushe—a Lebanese dish made with hand-pressed dough topped with spices, meats, cheeses, and pickles—qualified as “pizza.” 123 Avalon S. Ct. 567, 570 (2011).³ In that case, the plaintiff, a food truck serving manoushe, claimed it was wrongly denied a booth at a pizza festival. Id. The Court rejected the defendant’s argument that manoushe wasn’t pizza, finding that a “food’s identity is determined by the manner in which ingredients are combined and presented,” not by specific ingredients. Id. Similarly, in National Association of Pizza Makers v. Terry, the Court held that a dish consisting of scallion pancakes topped with cheese and vegetables qualified its creator for membership in an organization for pizza makers. 910 Avalon S. Ct. 123, 126 (2015). The Court reasoned that the dish shared key features with pizza, including a dough crust topped with melted cheese and diced vegetables. Id. at 127.

² Legal writers generally use either *italics* or underlining to emphasize signals and case citations. This memo uses underlining for instructional purposes, but italics are more common in modern practice. Underlining originated during the typewriter era, when italics were unavailable, and the convention became embedded in legal citation. Today, either method is acceptable if used consistently, although students should defer to their supervising attorney’s or professor’s preferred formatting convention.

³ The “Avalon” appellate and supreme court cases discussed in this memo are fictional.

On the other hand, courts have declined to classify foods lacking a dough crust as pizza. For example, in Jones v. Chicken Crust Pizza Corp., the court determined that it was misleading to market a product with a “crust” made of ground chicken, sauce, and cheese as “pizza” because pizza “necessarily implies a dough-based crust.” 123 Avalon App. Ct. 456, 458 (2017).

Here, the ordinary meaning of “pizza” would likely be interpreted to include tlayudas. Tlayudas fit the dictionary definition of pizza as a “dish made typically of flattened bread dough spread with a savory mixture usually including tomatoes and cheese and often other toppings and baked.” After all, tlayudas feature a large, thin, crunchy dough base topped with ingredients commonly found on pizza, such as cheese, meat, and vegetables. Thus, if a court were to consult the dictionary meaning of pizza as the court in White City did to determine the ordinary meaning of “sandwich,” it would likely conclude that a tlayuda is a type of pizza.

Indeed, tlayudas are at least as similar to traditional pizzas as other foods that courts have recognized as pizza. For example, tlayuda toppings—cheese, vegetables, and meat—are like those on manoushe, which the Court in Cedars Restaurant held qualified as pizza. As that Court emphasized, pizza is defined by the “manner in which ingredients are combined and presented,” not by the presence or absence of any specific ingredient. Cedars Restaurant, 123 Avalon S. Ct. at 570. Indeed, like the manoushe in Cedars Restaurant and the scallion pancake in Terry, a tlayuda layers toppings such as vegetables, meat, and melted cheese on a dough base, just like a traditional pizza.

To be sure, tlayudas are different from the flour-based foods discussed in Cedars Restaurant and Terry because tlayuda dough is made from nixtamalized corn. More generally, it’s fair to assume that a tlayuda isn’t the first thing that comes to mind when one thinks of pizza. Nevertheless, tlayuda dough is structurally and aesthetically similar to flour-based tortilla dough and more closely resembles traditional pizza dough than crusts that courts have rejected as inconsistent with pizza. For example, unlike the chicken crust “dough” in Jones, which was made of ground meat pressed into a flatbread shape, the tlayuda’s corn tortilla is an unleavened flatbread, consistent with how many pizzas are prepared. Likewise, although traditional pizzas often feature tomato sauce and mozzarella,

neither manoushe nor scallion pancakes include those ingredients, yet they qualified as pizza in Cedars Restaurant and Terry.

Famous Taco can also respond that a court would not analyze the “pizza” exemption in isolation but would read it in conjunction with other text in the exclusivity provision. See Wind Dancer Prod. Grp. v. Walt Disney Pictures, 215 Cal. Rptr. 3d 835, 845 (Ct. App. 2017) (giving effect to all contract terms relevant to incontestability clause rather than interpreting a term in isolation). Specifically, Famous Tacos might argue that the flat, crispy tortilla platform of a tlayuda makes it similar to a tostada, which is often sold alongside tacos by restaurants and food trucks, arguably making it “taco-related” and thus not within the pizza exemption. However, even assuming tostadas and tlayudas could be viewed as similar, a tlayuda should not be viewed as “taco-related” simply because it is similar to other foods often sold alongside tacos, especially absent any evidence that Famous Tacos offers tostadas as an alternative form of taco or a close substitute.

Finally, to the extent this case presents a close call, several additional considerations weigh in favor of a court deeming a tlayuda a pizza. When a contract term is open to multiple reasonable interpretations, courts construe the ambiguity against the interests of the party who drafted it. Sandquist v. Lebo Auto., Inc., 1 Cal. 5th 233, 248 (2016). For example, in White City, the court interpreted an exclusivity provision’s reference to “sandwich” against the defendant, the party that drafted the provision. 21 Mass. L. Rptr. at 565. The provision prohibited the plaintiff, a mall operator, from leasing space to another “sandwich” vendor. Id. The defendant, a sandwich vendor, sought to enforce it after the plaintiff leased space to a burrito restaurant, arguing that burritos are sandwiches. Id. In ruling that burritos are not sandwiches, the court emphasized that the defendant had drafted the exclusivity provision but failed to define “sandwich” or clarify during negotiations that it considered burritos, tacos, and quesadillas to fall within that category. Id.

Moreover, when interpreting ambiguous food terms, courts appear to favor outcomes that promote business growth. Cf. White City, 21 Mass. L. Rptr. at 566 (finding that burrito is not sandwich, thereby denying preliminary injunction that would have halted restaurant construction); Quintana v. Fort Wayne Plan Commission, No. 02D02-2212-PL-414 at 10 (Allen Cnty., Ind. Super. Ct. May 13, 2014) (holding that burrito is “Mexican-style

sandwich[],” thereby allowing commercial development to proceed despite ambiguous zoning restriction).

Similar to the broad interpretation of “sandwiches” in White City, any uncertainty in the meaning of “pizza” would likely be interpreted against Famous Taco, whose lawyers drafted the exclusivity provision. This conclusion is reinforced by the provision’s express reference to “tacos”: If Famous Taco intended the exclusivity provision to encompass other dishes such as tlayudas it could have defined more precisely what it meant by “taco-related products.” Moreover, as in both White City and Quintana, the policy of fostering business growth favors an interpretation of “pizza” that allows Tia Tina’s Tlayudas to continue operating in its established location.

V. CONCLUSION

For the reasons discussed above, a court would likely consider tlayudas to be “pizza” under the terms of Downtown Entertainment’s lease with Famous Taco. Therefore, Downtown Entertainment did not violate the exclusivity provision by leasing space to Tia Tina’s Tlayudas.