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**ONEIDA JUDICIARY  
TRIAL COURT**

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**Mickey Escamea,  
Petitioner**

v.

**Case No: 16-TC-065**

**Jack Denny, Oneida Retail Enterprises  
Respondents**

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**DECISION**

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This case has come before the Oneida Trial Court, Honorable Layatalati Hill presiding.

**Background**

A complaint was filed on September 21, 2016. On October 13, 2016 the Respondent filed a motion to dismiss. On October 18, 2016 the Petitioner filed a response to Respondent's motion to dismiss. A hearing was held on October 25, 2016 and a briefing schedule ordered. On November 4, 2016 the Respondent filed a brief in support of the motion to dismiss. On November 29, 2016 the Petitioner filed a motion to proceed and amended complaint. A hearing was held on November 30, 2016.

**Findings**

1. The amended complaint seeks a declaratory ruling on the authority, rights and/or duties of employees of the Oneida Nation to grant or deny permission to Oneida vendors seeking to sell their goods on tribally owned property.
2. The Petitioner would like clarification on what process needs to be followed in order for a tribal member to sell their goods on tribally owned property and who has the authority to give permission for such person to do so.
3. The Petitioner is asking the Court to make a ruling on what procedure should be followed and who would have the authority to enforce it.
4. Neither the complaint nor the Petitioner identified a tribal law applicable to the issue stated above granting the Court jurisdiction over a declaratory judgment pursuant to the Judiciary law chapter 150.5-2(e).

## Decision

Neither the Petitioner nor the Respondent identified a tribal law applicable to these circumstances. The Court is not a legislative body that creates law. The Court's function is to interpret and apply the law to a particular set of facts and because no specific law was brought forward by the Petitioner, there is nothing for the Court to determine whether or not it is valid in accordance with Chapter 150.5-2 which states as follows:

The Trial Court shall have subject matter jurisdiction over cases and controversies arising under the following:

(e) where a declaratory judgment is sought to determine the validity of a Tribal law. The Trial Court shall render a declaratory judgment in such action only when it appears from the petition and the supporting evidence that the law or its threatened application interferes with or impairs, or threatens to interfere with or impair, the legal rights and privileges of the petitioner. The Trial Court shall declare the law invalid if it finds that:

- (1) The law violates Constitutional provisions; or
- (2) The law was adopted without compliance with law making procedure required under Tribal law.

As mentioned above, there is no tribal law to be applied or interpreted in this case. There are processes available for persons through the Oneida Legislative Operating Committee if a person wants to create or amend tribal law. The Oneida Judiciary is not the place to do so.

For the above reasons, the Respondent's motion to dismiss is granted for lack of subject matter jurisdiction. This case is dismissed with prejudice.

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary pursuant to Resolution 01-07-13-B of the General Tribal Council and Order signed on December 01, 2016 in the matter of Mickey Escamea v Jack Denny, Oneida Retail Enterprises. Case #16-TC-065.

  
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Layatalati Hill, Trial Court Judge