

1 David H. Miller (Admitted Pro Hac Vice)  
2 [DMiller@sawayalaw.com](mailto:DMiller@sawayalaw.com)  
3 SAWAYA & MILLER LAW FIRM  
4 1600 Ogden Street  
5 Denver, Colorado 80218  
6 (303) 839-1650 x 1090  
7 *Attorneys for Plaintiffs Price, Wilson and Esposito*

8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE DISTRICT OF ARIZONA**

10 DEBRA PRICE, SEAN WILSON,  
11 and SANDRA JEAN ESPOSITO,  
12 on behalf of themselves and all others  
13 similarly situated,

14 Plaintiffs,

15 v.

16 SPROUTS FARMERS MARKET, INC.,  
17 d/b/a/ SPROUTS FARMERS MARKET,  
18 LLC,

19 Defendant.

Civil Action No. 16-cv-2047-PHX-DLR  
FIRST AMENDED COMPLAINT  
HON. DOUGLAS L. RAYES

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20 **FIRST AMENDED COMPLAINT**

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21 Debra Price, Sean Wilson, and Sandra Esposito (“Plaintiffs”), on their individual  
22 behalves and on behalf of the Class described herein, by and through their undersigned  
23 attorneys, complain and allege as follows:  
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**CLASS AND COLLECTIVE ACTION COMPLAINT**

This case is brought by Plaintiffs who had their personal identifying information (“PII”) accessed, stolen, and used without their authorization, and because of the negligence, breaches of statutory, common law and contractual duties, and other acts and omissions described herein on the part of Defendant Sprouts Farmers Market, Inc. (“Sprouts”) they suffered actual harm and monetary damages. Plaintiffs brings this action to obtain declaratory and injunctive relief, damages (including compensatory, statutory, exemplary and punitive damages), costs of suit, attorneys’ fees and other appropriate relief on their own individual behalf, and on behalf of all others similarly situated, specifically the over 21,000 other Sprouts employees who worked during 2015. The case is brought as both a class and collective action, as described herein (hereinafter referred to as a “class action”).

**NATURE OF THE CASE**

1. Plaintiffs bring this case as a class and collective action on their own behalves and on the behalf of more than 21,000 employees who have had their PII and tax information accessed, stolen and used illegally as a result of the acts and failures to act of the Defendant. This case seeks to remedy the harmful effects of the data breach that occurred in or about March 2016, Defendant’s failure to timely and reasonably notify Plaintiffs and the Class (“Plaintiffs”) of the breach in accordance with the laws of most states, including Arizona and California, failure to abide by other laws that required Plaintiffs’ PII be secured, and, the insufficient remedy afforded by Defendant.

1           2. Plaintiff Debra Price is a former employee of Sprouts whose tax information was stolen  
2 and used to claim a fraudulent tax refund before Plaintiff was made aware of the phishing scam  
3 at Sprouts, and before she was able to file her own tax return. The theft and use of her personal  
4 information has caused actual and ongoing damage.

5           3. Plaintiff Sean Wilson is a current employee of Sprouts in California whose tax  
6 information was stolen and as a direct and proximate result he will suffer and/or has suffered  
7 economic damages and other harm such as identity theft, and identity or medical fraud. Because  
8 of plans to purchase real property Wilson had to purchase and/or set aside actual funds for the  
9 purchase of additional credit protection services because of the failure of Sprouts to remedy the  
10 breach of his PII, and thereby has or will incur the costs of additional monitoring beyond the  
11 inadequate one-year monitoring offered by Sprouts. The theft and use of his personal  
12 information has caused actual and ongoing damage.

13           4. Plaintiff Sandra Esposito is a former employee of Sprouts whose tax information was  
14 stolen and used to claim a fraudulent tax refund before Plaintiff Esposito was aware of the theft  
15 and has prevented collection of her tax refund which is urgently needed for critical medical  
16 treatment. The theft and use of her personal information has caused actual and ongoing damage.

17           5. Defendant was negligent in storing, maintaining and disclosing its employees' Internal  
18 Revenue Service ("IRS") 2015 W-2 forms and that negligence has damaged and additionally  
19 placed Plaintiffs at an increased risk of fraud, identity theft, and financial injury associated with  
20 repairing the identity theft that has already occurred, monitoring future attempts at identity theft,  
21 compensating the Plaintiffs for damage that has already occurred and will continue to occur in  
22 the future, and guarding against unauthorized tax filing and other abuse that is a direct and  
23 proximate result of Sprout's violations of Plaintiffs' rights.

**JURISDICTION AND VENUE**

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6. This Court has jurisdiction over this action pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d). Plaintiff Price resides in Colorado. Plaintiff Wilson resides in California. Plaintiff Esposito resides in Arizona. Defendant is an incorporated for profit business entity whose principal place of business and corporate headquarters is in Phoenix, Arizona.

7. More than 21,000 Plaintiff class members, nationwide, had their PII accessed, wrongfully disclosed by Sprouts, and taken by unknown third parties. The aggregate amount in controversy exceeds \$5,000,000.

8. This Court has personal jurisdiction over the parties because the Defendant conducts substantial business in this State, has had systematic and continuous contacts within this State, and has agents and representatives that can be found in this State.

9. Under 28 U.S.C. § 1391, venue is proper in this District because Defendant engaged in substantial conduct relevant to the claims of Plaintiffs, and caused harm to members of the Class in this District.

**PARTIES**

10. Plaintiff Price is a former employee of Sprouts. Sprouts employed the Price from approximately February 28, 2010 until approximately December 3, 2015. She worked as a courtesy clerk and then as a part time cashier. Price’s PII was compromised when on or around March 14, 2016, a Sprouts employee who was given access to all of Plaintiffs’ PII emailed complete copies of all current and former employees’ 2015 IRS W-2 forms to a phishing scammer who pretended to be another Sprout’s employee. After Price’s W-2 was stolen, her identity was compromised. Price and her husband were unable to e-file their taxes because someone in possession of Price’s social security number had already claimed a rapid refund

1 through unknown sources to obtain Price's tax refund. Price has suffered actual, tangible  
2 damages. She will need to expend additional time, money and resources, to work with the IRS,  
3 her CPA, the State of Colorado and all credit reporting agencies to sort out the fraudulent tax  
4 claim made with her social security number that was compromised due to Sprout's negligence  
5 and failure to protect her form W-2.  
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7 11. Plaintiff Wilson has been employed at Sprouts for approximately four (4) years in  
8 California. He has worked at two (2) California Spouts stores; store numbers 249 and 228. He is  
9 currently the 3<sup>rd</sup> Supervisor in the Produce Department of store 228 located in San Diego,  
10 California. Like all other Class members, Plaintiff Wilson's W2 information was stolen and  
11 used by an unknown person and proximate result he will suffer and/or has suffered economic  
12 damages and other harm such as identity theft, and identity or medical fraud and has incurred  
13 and/or will incur costs associated with additional credit monitoring beyond the inadequate one-  
14 year monitoring offered by Sprouts. The theft and use of his personal information has caused  
15 actual and ongoing damage.  
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17 12. Plaintiff Esposito was an employee of Sprouts in Scottsdale, Arizona during 2015 who  
18 worked as a salad clerk. In early April 2016 Esposito and her husband attempted to  
19 electronically file their taxes, but received an IRS notice that a return had already been filed for  
20 her social security number and she would not receive her refund until she followed IRS fraud  
21 procedures. Esposito has suffered actual, tangible damages. Most critically, she has been unable  
22 to obtain the refund that was expected and needed to pay for critical medical care. As of the  
23 filing of this Complaint, Esposito still has not received their tax return, but has put the family  
24 behind in billing schedules, causing them to incur late fees. She will need to expend additional  
25 time, money and resources, to work with the IRS, her CPA, the State of Arizona and all credit  
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1 reporting agencies to sort out the fraudulent tax claim made with her social security number that  
2 was compromised due to Sprout's negligence and failure to protect her form W-2.

3 13. Defendant Sprouts is a Delaware corporation with its principal place of business in  
4 Arizona at 11811 N. Tatum Boulevard, Suite 2400, Phoenix, Arizona 85028, and headquartered  
5 at 5455 E. High Street, Suite 111, Phoenix, AZ 85054. Sprouts operates a nationwide chain of  
6 more than 220 grocery stores in across the United States and employs over 21,000 people as of  
7 the filing of this complaint.  
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10 **FACTUAL ALLEGATIONS**

11 14. Plaintiffs incorporate the preceding factual allegations as though fully set forth herein.

12 15. Price was an employee at Sprouts from on or about February 28, 2010 until on or about  
13 December 3, 2015. Esposito and Wilson were employees at Sprouts during the 2015 tax year,  
14 and Wilson is still employed by Sprouts.  
15

16 16. On information and belief, on or about March 14, 2016, the payroll department at Sprouts  
17 headquarters disclosed all its employees' 2015 W-2 earning statements to an unknown person  
18 who sent an email claiming to be a Sprouts' executive.

19 17. On March 17, 2016, Sprouts claims it became aware of a data breach disclosing its  
20 employees' 2015 W-2's.  
21

22 18. The W-2s include an employee's full name, address, social security number ("SSN"),  
23 wages, and taxes withheld in 2015.

24 19. Sprouts has claimed that it alerted its employees before March 28, however the only  
25 notice Plaintiffs and other class members received of this data breach was on or around April 1,  
26 2016, or later, when a letter arrived in the mail, dated March 28, 2016, informing Plaintiffs that  
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1 they and 21,000 of their former coworkers' 2015 W-2's were disclosed to an unknown person  
2 claiming to be a Sprouts senior executive.

3 20. The letter stated that:

- 4 a) Sprouts was the victim of a phishing scam the week of March 14, 2016.  
5  
6 b) Sprouts disclosed all 2015 form W-2 wage and tax statements when fulfilling what  
7 was believed to be a legitimate request for information  
8  
9 c) Sprouts became aware of the incident on March 17, 2016  
10  
11 d) Sprouts disclosed form W-2 which includes full name, address, SSN, wages, taxes  
12 withheld in 2015.  
13  
14 e) Sprouts claimed that it did not disclose birthdate, bank information, credit card  
15 information, or email addresses.  
16  
17 f) Sprouts stated that they had taken steps to address the situation, and suggested steps  
18 the recipient of the letter could take to protect their personal information.  
19  
20 g) Sprouts claimed they took immediate action as soon as they discovered the breach.  
21  
22 h) Sprouts stated it contacted the FBI  
23  
24 i) Sprouts also stated that it communicated with their employees/former employees so  
25 that those employees and former employees could take steps to protect themselves.  
26  
27 j) Sprouts offered each employee/former employee a complimentary one-year  
28 membership of Experian's Protect MyID Alert.  
k) Sprouts suggested that each employee obtain their free credit report from the credit  
bureaus, and look to the FTC to obtain more information about placing a security  
freeze on their credit files, and placing a fraud alert on their accounts also.

1           l) Sprouts set up a toll free hotline for questions – 855-814-8016 and  
2           [teammemberhelp@sprouts.com](mailto:teammemberhelp@sprouts.com)

3           m) The letter was signed by Brandon Lombardi, Chief Legal Officer.

4           21. The letter also stated that it had previously notified employees about the breach before  
5           the March 28 letter. However, neither Plaintiff Price, nor her minor daughter, or Plaintiff  
6           Esposito or other Plaintiffs who worked at Sprouts in 2015 had received actual notice of the data  
7           theft before receiving the letter.  
8

9           22. The following week, the week of April 4, 2016, Plaintiff Price’s CPA attempted to e-file  
10          Price and her husband’s joint tax return for 2015 with the IRS. However, the return was rejected  
11          because Price’s SSN had already been used by an unknown person to get a rapid refund.  
12

13          23. On April 8, 2016, Price called the IRS to alert them of the apparent theft of her SSN and  
14          her tax refund. The IRS confirmed the SSN used was Price’s and put an alert on the return. As  
15          of this date it is unknown exactly what process the Price and her husband will be able to use to  
16          file their taxes. But it is clear that Price’s SSN is compromised and will require additional time,  
17          money and effort to repair the damage already done, to ensure that her SSN is not used again and  
18          to do or undo whatever is necessary to repair the breach.  
19

20          24. Price’s minor daughter was also an employee of Sprouts during 2015 and her W-2 has  
21          also been compromised leaving her vulnerable to identity theft and a threat that her credit will be  
22          compromised before she even has a chance to build that credit.  
23

24          25. As a result of the data breach unknown third parties now possess the PII of Sprout’s  
25          employees and former employees who are the Plaintiffs in this case.  
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1           26. As a direct and proximate cause of Sprout’s disclosure of its employees 2015 W-2’s the  
2 Plaintiffs’ SSNs were stolen and used to claim Plaintiff Price, Esposito and Wilson’s tax refund  
3 and an as yet unknown number of other Plaintiffs’ tax refunds.

4           27. Upon information and belief the information was disseminated and transmitted over the  
5 internet in and from the state of Arizona by Sprouts.

6           28. A person’s social security number is perhaps the most important piece of information to  
7 an individual in the modern world. It is used among other things to verify eligibility for  
8 employment, to apply for a passport, to open a bank account, to apply for a credit card, or a  
9 student loan, or a mortgage. A social security number is also needed to obtain government  
10 benefits like social security and Medicare. Social security numbers are assigned to citizens (and  
11 sometimes to noncitizens) as early as their birth and are required to enroll in school, and to  
12 obtain healthcare services. A social security number follows a person through life.

13           29. Sprouts, as an employer, required Plaintiffs to surrender to it their SSNs and other PII,  
14 and Sprouts was entrusted with properly holding and safeguarding such PII.

15           30. Sprouts had a duty as an employer to guard and protect the private, highly sensitive,  
16 confidential PII of the Plaintiffs.

17           31. Sprouts had a duty as a business to take reasonable measures to secure Plaintiffs’ private  
18 information that was entrusted to it.

19           32. Sprouts not only failed to safeguard and prevent the theft of this PII from its computers  
20 or network, but voluntarily handed it over to third parties upon their mere electronically  
21 delivered email request.

1 33. Sprouts failed to take reasonable precautions to protect the Plaintiffs' PII, and otherwise  
2 failed to act reasonably in fulfillment of their duty not to disclose Plaintiffs' PII, and affirmatively  
3 to protect that PII.

4 34. Sprouts negligently and carelessly kept its employees and former employees personal  
5 information.

6 35. The risk to theft by or disclosure to cyber criminals of sensitive data, including PII, stored  
7 electronically is well-known and common knowledge.

8 36. Despite this knowledge, Sprouts did not encrypt or password-protect any of the Plaintiffs'  
9 PII that it wrongfully disclosed.

10 37. Sprouts' release of the PII was wantonly and willfully done.

11 38. Sprouts did not encrypt or password-protect its Plaintiffs' social security numbers as a  
12 prudent and responsible company would do with its employees' confidential and personal  
13 identifying information.

14 39. Arizona's Consumer Protection Act prohibits a person or entity from requiring an  
15 individual to transmit his or her social security number over the internet, unless the connection is  
16 secure or the social security number is encrypted.

17 40. Sprouts violated basic guidelines to encrypt or password-protect sensitive information of  
18 its employees and in so doing failed to meet the most basic standards of data security and  
19 reasonable business practices, and thereby failed to ensure adequate security of the Plaintiffs'  
20 personal, and financial PII and by failing to retain this PII in a secure and safe manner.

21 41. Cal. Civ. Code §1798.81.5 requires any business that maintains personal information  
22 about a California resident to implement and maintain reasonable security procedures and  
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1 practices appropriate to the nature of the information, to protect the personal information from  
2 unauthorized access or disclosure.

3 42. Sprouts violated California law by failing to implement reasonable or appropriate  
4 security procedures, measures or protocols to protect its current and former employees' PII in  
5 accordance with the law.  
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7 43. As a direct and proximate cause of Sprout's actions, all its employees and former  
8 employees have been required to spend man hours addressing and ameliorating or otherwise  
9 dealing with actual and ongoing harm to the PII and W2 information – information that Sprouts  
10 would not have been able to wrongfully disclose but for the employment relationship between it  
11 and the Plaintiffs.  
12

13 44. Sprouts has failed to pay the Plaintiffs and Class at least minimum wage for the time  
14 spent as a result of its actions.

15 45. Within only a week of the data breach, Plaintiffs' PII was used to try to steal Plaintiffs'  
16 federal tax returns, to wreak havoc on Plaintiffs' tax filing and cause unmeasured damage to the  
17 remainder of Plaintiffs' identities, which damage is ongoing.  
18

19 **CLASS ALLEGATIONS**

20 46. Plaintiffs here incorporate the above allegations by this reference.

21 47. Plaintiffs bring this case also as a class action pursuant to Rule 23 of the Federal Rules  
22 of Civil Procedure, on behalf of all Plaintiffs and as members of the following proposed Class:  
23 All current and former employees of Defendant who worked at Sprouts and received a W-2 for  
24 work performed in 2015, and who, during the period beginning on or about March 14, 2016 and  
25 continuing through the present had their PII disclosed and disseminated by Sprouts, and subject  
26 to use by unauthorized persons as a result of the Sprout's dissemination of its employees' PII.  
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Numerosity

48. The proposed Class is so numerous that joinder of all of its members is impractical. In excess of 21,000 current and former employees of Sprouts suffered the loss of their PII due to the actions and failures of the Defendant.

Common Questions of Law and Fact

49. There are multiple issues of law and fact in this case against the Defendant that are common to the Class, including the following:

50. Whether the Defendant received and stored PII of Plaintiffs and members of the Class;

51. The standard under which Defendant is to be held with respect to its possession and/or dissemination of Plaintiffs’ PII;

52. Whether the Defendant had a duty to act reasonably in protecting the PII of Plaintiffs in its care, custody and control;

53. Whether the Defendant failed to act reasonably in protecting the PII of Plaintiffs in its care, custody and control;

54. Whether the actions and/or failures to act of the Defendant caused the PII of Plaintiffs to be accessed, stolen and/or used without authorization;

55. Whether the Defendant failed to timely and reasonably notify Plaintiffs of the theft of their PII in conformity with the laws of Arizona and other states;

56. Whether the Defendant’s notification contained false or misleading information and/or failed to inform Plaintiffs of material information necessary to allow Plaintiffs to protect themselves from further harm due to the disclosure of their PII;





1 members not parties to the adjudications or substantially impair or impede their ability to  
2 protect their interests.

3 71. By its dissemination of the Plaintiffs' PII Defendants have acted or refused to  
4 act on grounds generally applicable to all members of the Class, thereby making appropriate  
5 final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.  
6

7 72. Accordingly, class certification is appropriate under Rule 23(b)(1)(A),  
8 23(b)(1)(B), 23 (b)(2) and 23(b)(3).

9  
10 **COUNT I - NEGLIGENCE**

11 73. Plaintiffs incorporate by reference the preceding and following paragraphs  
12 as though fully set forth herein.

13 74. The Defendant owed a duty of care to Plaintiffs and the Class to ensure that  
14 their PII was not used for improper purposes.  
15

16 75. The Defendant breached their duty of care to Plaintiffs and the Class to  
17 ensure that their PII was not used for improper purposes by failing to provide adequate  
18 protections to the PII, by negligently disseminating the PII, and by allowing the PII to be  
19 accessed, in unencrypted format, by third parties.  
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21 76. As a direct and proximate result of the Defendants' actions alleged above,  
22 the Plaintiffs and the Class suffered damages.  
23

24 WHEREFORE, Plaintiffs, on behalf of themselves and the members of the Class,  
25 respectfully seek the relief set forth below.  
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27 **COUNT II –**  
28 **VIOLATIONS OF THE ARIZONA CONSUMER FRAUD ACT**

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77. Plaintiffs incorporate by reference the preceding and following paragraphs as though fully set forth herein.

78. The Defendant engaged in an unfair or deceptive trade practice by not protecting and by not encrypting Plaintiffs and the Class’ PII when it transmitted its employees’ social security numbers over the internet.

79. The lax security protocols and failure to encrypt Plaintiffs and the Class’ PII was a practice that occurred in the course of Defendant's business;

80. Defendant’s failure to adequately protect the Plaintiffs and the Class’ PII impacts its employees, who represent over 21,000 consumers who are also members of the public and its actual or potential consumers of the Defendant's goods.

81. As a direct and proximate result of Defendant’s unfair trade practices the Plaintiffs and Class members suffered injury in fact to the protected interest of keeping their PII confidential and out of the hands of criminals and the practice caused the Plaintiffs actual injury.

WHEREFORE, Plaintiffs, on behalf of themselves and the members of the Class, respectfully seek the relief set forth below.

**COUNT III -- BREACH OF FIDUCIARY DUTY**

82. Plaintiffs incorporate by reference the preceding and following paragraphs as though fully set forth herein.



1           83.         Defendant was a fiduciary, as an employer created by its undertaking, to act  
2 primarily for the benefit of its employees in matters connected with the their  
3 employment.

4           84.         Plaintiffs and the Class were in a fiduciary relationship by way of the duty  
5 Defendant had in relation to the employment of Plaintiffs, and Defendant’s duty to act for  
6 or to give advice for the benefit of Plaintiffs and the Class upon matters within the scope  
7 of their relationship, specifically to keep income records, and report those records in a  
8 form W-2 to the IRS as the employer.

9           85.         The Defendant breached their duty of care to Plaintiffs and the Class to  
10 ensure that their PII and W-2 was not used for improper purposes by failing to provide  
11 adequate protections to the information and by allowing the information to be accessed,  
12 in unencrypted format, by third parties to whom Sprouts voluntarily disseminated the  
13 information.

14           86.         As a direct and proximate result of the Defendants’ actions alleged above,  
15 the Plaintiffs suffered actual damages.

16           WHEREFORE, Plaintiffs, on behalf of themselves and the members of the Class,  
17 respectfully seek the relief set forth below.

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23                                   **COUNT IV – BREACH OF CONTRACT**

24           87.         Plaintiffs incorporate by reference the preceding and following paragraphs  
25 as though fully set forth herein.  
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1 promised to keep the PII they collected from the Plaintiffs and the Class secure and  
2 confidential. In addition, the Defendant implicitly promised to retain this PII only under  
3 conditions that safeguarded such information , and to either destroy it after the  
4 employment ended, or to take appropriate steps to ensure that it not improperly lost or  
5 stolen.  
6

7 94. Plaintiffs and the Class faithfully worked for the Defendant and steadfastly  
8 kept their employment obligations. The Defendant did not.  
9

10 95. As a direct and proximate result of the Defendant failures to secure, protect,  
11 and/or destroy the PII of the Plaintiffs and the Class, and not to voluntarily disseminate it  
12 to third parties, the Plaintiffs and the Class suffered, injury and damages as described  
13 herein.  
14

15 WHEREFORE, Plaintiffs, on behalf of themselves and the members of the Class,  
16 respectfully seek the relief set forth below.  
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18 **COUNT VI – FOR INVASION OF PRIVACY (UNREASONABLE**  
19 **PUBLICITY GIVEN TO ONE’S PRIVATE LIFE)**  
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21 96. Plaintiffs incorporate by reference the preceding and following paragraphs  
22 as though fully set forth herein.

23 97. The Defendant, through its negligence and carelessness disclosed facts,  
24 specifically Plaintiffs and the Class’ PII that are private in nature.  
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26 98. By failing to protect those private facts the PII was disclosed to an  
27 unknown person or persons on the internet.  
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99. The Defendant’s disclosure of Plaintiffs and the Class’ PII and the subsequent use of that information to claim others tax returns or steal others’ identities is highly offensive to a reasonable person.

100. Plaintiffs and the Class’ W-2 information is not of legitimate concern to the public, but will only be used for nefarious purposes.

101. By not protecting Plaintiffs and the Class’ PII, including their W-2’s the Defendant acted with reckless disregard of the private nature of the facts that were disclosed.

102. As a direct and proximate result of Sprouts’ actions and inactions the Plaintiffs have suffered, and will continue to suffer actual damages.

WHEREFORE, Plaintiffs, on behalf of themselves and the members of the Class, respectfully seek the relief set forth below.

**COUNT VII – FOR VIOLATION OF CALIFORNIA STATUTORY LAWS  
PROTECTING PERSONALLY IDENTIFYING INFORMATION  
(Cal. Civ. Code §1798.80, et seq.), (Cal. Civ. Code §56, et seq.),**

103. Plaintiffs incorporate by reference the preceding and following paragraphs as though fully set forth herein.

104. Cal. Civ. Code §1798.81.5 requires any business that maintains personal information about a California resident to implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access or disclosure.

1           105. Sprouts violated the law by failing to implement reasonable or appropriate security  
2 procedures, measures or protocols to protect its current and former employees’ PII in accordance  
3 with the law.

4           106. In addition, by failing to immediately notify all affected current and former Sprouts  
5 employees that their personal information had been acquired by unauthorized persons, Sprouts  
6 violated Cal. Civ. Code §1798.82 of the same title. Sprouts’ failure to immediately notify  
7 employees of the breach caused Plaintiffs and Class members to suffer damages because they  
8 have lost the opportunity to immediately protect themselves and their information from being  
9 used in unauthorized and damaging ways or becoming victims of identity theft.

10           107. Under California law, Cal. Civ. Code §§1798.81.5 and 1798.82, Sprouts “may be  
11 enjoined” under Cal. Civ. Code §1798.84(e). Plaintiffs requests that the Court enter an  
12 injunction requiring Sprouts to implement and maintain reasonable security procedures to protect  
13 its employees’ PII, including, but not limited to, ordering that Sprouts: (1) periodically conduct  
14 internal training and education to inform internal personnel how to identify and thwart a similar  
15 data breach; (2) implement data security measures and controls to prevent a similar data breach;  
16 (3) meaningfully educate its current and former employees about the threats they face as a result  
17 of the loss of their PII to third parties, as well as the steps they must take to protect themselves;  
18 and (4) provide ongoing identity theft protection, monitoring, and recovery services to Plaintiff  
19 and Class members.

20           WHEREFORE, Plaintiffs, on behalf of themselves and the members of the  
21 Class, respectfully seek the relief set forth below.

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24           **COUNT VII – FOR FAILURE TO PAY MINIMUM WAGE UNDER**  
25           **THE FAIR LABOR STANDARDS ACT (29 U.S.C. §§ 201 et seq.)**  
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1           108.       Plaintiffs incorporate by reference the preceding and following paragraphs as  
2 though fully set forth herein.

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4           109.       Pursuant to the applicable provisions of the FLSA, 29 U.S.C. § 206 and § 207, the  
5 named Plaintiffs and the Class similarly situated were entitled to at least the minimum hourly  
6 wage, for each hour that they labored in Defendant's business and in the event they worked more  
7 than 40 hours a week an overtime hourly wage of time and one-half such minimum hourly wage  
8 for all hours worked in excess of 40 hours per week.

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10          110.       Through Sprouts' wrongful conduct alleged herein, Sprouts suffered and  
11 permitted Plaintiffs and the Class members to work and failed to pay them at least minimum  
12 wage for all of the time that Plaintiffs and the Class members reasonably have spent to address  
13 and attempt to ameliorate, mitigate, and deal with the actual and ongoing consequences of its  
14 release of PI. That work suffered includes but is not limited to: (i) identifying and dealing with  
15 fraudulent charges and accounts, including tax refund fraud, (ii) frequently obtaining and/or  
16 purchasing credit reports from multiple credit reporting agencies, (iii) placing and removing  
17 fraud alerts and security freezes on credit reports, (iv) obtaining and/or purchasing credit  
18 monitoring and internet monitoring services, (v) obtaining and/or purchasing identity theft  
19 insurance, (vi) spending time on the telephone attempting to sort out issues related to the breach,  
20 (vii) and in some instances obtaining new Social Security numbers.

21  
22          111.       Sprouts placed the burden on Plaintiffs and Class members to spend hours of their  
23 time addressing these issues.

24  
25          112.       Plaintiffs and Class members have been required to take these actions as a result  
26 of their employment with Sprouts, and Sprouts is or should be aware that Plaintiffs and Class  
27 members are taking such actions, and spending hours of their time to do so, Sprouts has suffered  
28

1 and permitted them to work and, thus, is required to pay them at least minimum wage for all  
2 hours they spend taking such actions.

3 113. As a direct result of Sprouts' conduct alleged herein, Plaintiff and Class members  
4 have suffered and continue to suffer, substantial losses related to the use and enjoyment of such  
5 wages.  
6

7 114. Plaintiffs seek to recover in a civil action the unpaid balance of the full amount of  
8 the unpaid wages resulting from Sprouts' minimum wage violations including interest thereon,  
9 reasonable attorney's fees and costs of suit, and liquidated damages to the fullest extent  
10 permissible.  
11

12 115. The Plaintiffs and the Class were paid no monetary compensation whatsoever by  
13 the Defendant for performing labor suffered or permitted by the Defendant and arising from the  
14 employer/employee relationship and such failure to pay the Plaintiffs and the Class any  
15 compensation whatsoever violates the minimum hourly wage requirements of 29 U.S.C. § 206  
16 and, in the event any of the class members or Plaintiff ever worked in excess of 40 hours in a  
17 week, the overtime pay requirements of 29 U.S.C. § 207.  
18

19 116. The named Plaintiff on behalf of themselves and all other similarly situated  
20 persons who consent in writing to join this action, it also being proposed that all such persons be  
21 notified of this action through the dispatch of a written notice to the last known names and  
22 addresses of such persons that are set forth in the Defendant's records or that can otherwise be  
23 ascertained, seek, on this Claim for Relief, a judgment for unpaid minimum wages and overtime  
24 wages and additional liquidated damages of 100% of any such unpaid wages, such sums to be  
25 determined based upon an accounting of the hours worked by the named Plaintiffs and any such  
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1 other persons who consent to join this action, and the Plaintiffs also seek an award of attorney’s  
2 fees, interest and costs as provided for by the FLSA.

3  
4 WHEREFORE, Plaintiffs, on behalf of themselves and the members of the Class,  
5 respectfully seeks the relief set forth below.

6  
7 **PRAYER FOR RELIEF**

8  
9 WHEREFORE, the representative Plaintiffs, on behalf of themselves and on  
10 behalf of the Plaintiffs who are described within the Rule 23 definition of any class  
11 certified by the Court, pray for the following relief:

- 12  
13 A. Certify this case as a Class action pursuant to Rule 23 of the Federal Rules  
14 of Civil Procedure, and as a Collective action under the FLSA, and  
15 denominate Plaintiffs as adequate representatives for the Class and the  
16 undersigned counsel as counsel for the Class and Collective action;
- 17  
18 B. That, at the earliest possible time, Plaintiffs be allowed to give Notice of  
19 this action, or that the Court issue such Notice, to all persons who have at  
20 any time during the 2015, up through and including the date of this Court’s  
21 issuance of Court-supervised Notice, been employed, as described above,  
22 by Sprouts. Such Notice shall inform such workers or former workers that  
23 this civil action has been filed and of the nature of the action;  
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- C. That the Court issue such injunctive and/or declaratory or other equitable relief to which the Plaintiffs may be entitled, so that the unlawful behavior of the Defendant may be stopped;
- D. Declare unlawful the acts and practices alleged herein, and enjoin the Defendant from committing the acts alleged herein. Included in the injunction, the provision of credit monitoring services for Plaintiffs and the Class for at least twenty-five (25) years, the provision of bank monitoring for the Plaintiff Class for at least twenty-five (25) years, the provision of credit restoration services for Plaintiffs and the Class for at twenty-five (25) years, and the provision of identity theft insurance for Plaintiffs and the Class for at least twenty-five (25) years;
- E. Enter judgment against Defendant for the violations alleged herein;
- F. Award the actual and compensatory damages incurred by Plaintiffs and the members of the Class as a result of the wrongful acts complained of, along with pre-judgment and post- judgment interest at the maximum rate allowed by law;
- G. Award Plaintiffs punitive and exemplary damages for the wanton and willful behavior of the Defendant, as alleged herein.
- H. Award Plaintiffs all damages allowed under state statutory laws, as alleged herein.
- I. That the representative Plaintiffs be granted incentive awards, as deemed reasonable by the Court;

- 1 J. That the Plaintiffs be awarded their reasonable attorney's fees;  
2 K. That the Plaintiffs be awarded the costs and expenses of this action; and  
3 L. That the Plaintiffs be awarded such other legal and/or equitable relief as is  
4 permitted by law.  
5

6 **PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL TRIABLE ISSUES**  
7  
8

9 Respectfully submitted, this 11<sup>th</sup> day of July, 2016.

10  
11 *s/ David H. Miller*

12 David H. Miller, Esq.

13 Heather Joyce, Esq.

14 SAWAYA & MILLER LAW FIRM

15 1600 Ogden Street

16 Denver, CO 80218

17 Telephone: 303-839-1650

18 FAX: 720-235-4377

19 Email: [DMiller@sawayalaw.com](mailto:DMiller@sawayalaw.com)

20 [HJoyce@sawayalaw.com](mailto:HJoyce@sawayalaw.com)

21 Attorneys for Plaintiffs

22 Plaintiffs' address:

23 Debra Price

24 c/o

25 David H. Miller

26 1600 Ogden Street

27 Denver, CO 80218

28 Sandra Jean Esposito

c/o

David H. Miller

1600 Ogden Street

1 Denver, CO 80218

2 Sean Wilson  
3 c/o  
4 David H. Miller  
5 1600 Ogden Street  
6 Denver, CO 80218

7 **Certificate of Service**

8 I hereby certify that on the 14<sup>th</sup> day of July, 2016, I electronically transmitted the  
9 attached document to the Clerk's Office using the CM/ECF system for filing and  
10 transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

11 Paul G. Karlsgodt  
12 Casie Collignon  
13 BAKER & HOSTETLER, LLP  
14 1801 California Street, Suite 4400  
15 Denver, CO 80202

16 Daniel B. Pasternak  
17 SQUIRE PATTON BOGGS (US) LLP  
18 One East Washington Street, Suite 2700  
19 Phoenix, AZ 85004

20 *David H. Miller*

21 David H. Miller