

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH

MILWAUKEE COUNTY

---

STATE OF WISCONSIN  
17 West Main Street  
Post Office Box 7857  
Madison, Wisconsin 53707-7857,

and

PETER J. BILDSTEN, SECRETARY,  
WISCONSIN DEPARTMENT OF  
FINANCIAL INSTITUTIONS,  
354 West Washington  
Madison, Wisconsin 53703,

Case No. 2012-CX

Complex Forfeiture: 30109

Plaintiffs,

v.

PINNACLE SECURITY, LLC,  
1290 Sandhill Road  
Orem, Utah 85048-7306,

Defendant.

---

### SUMMONS

---

THE STATE OF WISCONSIN

To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

---

IF YOU REQUIRE THE ASSISTANCE OF AUXILIARY AIDS OR SERVICES BECAUSE OF A DISABILITY, CALL (414) 278-4120 (TTY -- (414) 276-1096) AND ASK FOR THE MILWAUKEE COUNTY CIRCUIT COURT ADA COORDINATOR.

---

Within twenty (20) days of receiving this Summons, you must respond with a written answer, as that term is used in Wis. Stat. ch. 802, to the Complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the Court, whose address is Milwaukee County Courthouse, 901 N. Ninth Street, Room 104, Milwaukee, Wisconsin 53233-1425, and to Lara Sutherlin, Assistant Attorney General, Plaintiff's attorney, whose address is Post Office Box 7857, Madison, Wisconsin 53707-7857. You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (20) days, the court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated August 30, 2012.

Respectfully submitted,

J.B. VAN HOLLEN  
Attorney General



LARA SUTHERLIN  
Assistant Attorney General  
State Bar #1057096

Attorneys for Plaintiff, State of Wisconsin

Wisconsin Department of Justice  
Post Office Box 7857  
Madison, Wisconsin 53707-7857  
(608) 267-7163  
(608) 267-2778 (Fax)  
sutherlinla@doj.state.wi.us

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH

MILWAUKEE COUNTY

---

STATE OF WISCONSIN  
17 West Main Street  
Post Office Box 7857  
Madison, Wisconsin 53707-7857,

and

PETER J. BILDSTEN, SECRETARY,  
WISCONSIN DEPARTMENT OF  
FINANCIAL INSTITUTIONS,  
354 West Washington  
Madison, Wisconsin 53703,

Case No. 2012-CX

Complex Forfeiture: 30109

Plaintiffs,

v.

PINNACLE SECURITY, LLC,  
1290 Sandhill Road  
Orem, Utah 85048-7306,

Defendant.

---

## COMPLAINT

---

The State of Wisconsin, by its attorneys, J.B. Van Hollen, Attorney General, and Lara Sutherlin, Assistant Attorney General, on behalf of the Wisconsin Department of Justice and the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) and the Wisconsin Department of Financial Institutions (DFI), brings this action against the defendant, Pinnacle Security, LLC, and alleges as follows:

### I. PARTIES

1. Defendant Pinnacle Security, LLC is a Utah limited liability company with its principal place of business at 1290 Sandhill Road, Orem, Utah 84058.

2. Any references to the acts, practices, or omissions of the defendant shall include those acts, practices, or omissions of defendant's officers, directors, employees, representatives, or other agent, and shall include acts, practices, or omissions done by or through such individuals.

3. For the purpose of this complaint, Pinnacle Security, LLC will be referred to as "Pinnacle."

4. Pinnacle is a "seller" within the definition of Wis. Admin. Code § ATCP 127.01(21).

5. Pinnacle was, at all times relevant to this complaint, engaged in the business of selling alarm security systems and monitoring services, which constitute "consumer goods or services" within the meaning of Wis. Admin. Code § ATCP 127.01(3).

6. At all times relevant hereto, Pinnacle is a creditor within the definition of Wis. Stat. § 421.301(16), as it regularly engages in consumer credit transactions.

7. Pinnacle is not registered in Wisconsin under the Wisconsin Consumer Act (WCA).

## **II. JURISDICTION AND VENUE**

8. This action is brought pursuant to Wis. Stat. § 100.18(11)(d) to enforce and restrain violation of Wis. Stat. § 100.18(1), to recover pecuniary losses suffered by Wisconsin consumers and to obtain civil penalties and forfeitures.

9. This action is brought pursuant to Wis. Stat. § 100.20 to enforce and restrain violations of Wis. Admin. Code § ATCP 127, to recover pecuniary losses suffered by Wisconsin consumers and to obtain civil penalties and forfeitures.

10. This action is also brought pursuant to Wis. Stat. §§ 426.109 and 426.301, to restrain and obtain the imposition of civil penalties for those violations of Wis. Stat. chs. 421, 422, 423, 425, and 426.

11. Venue is proper in Milwaukee County, Wisconsin in that the transaction, or some part thereof, giving rise to this cause of action occurred in Milwaukee County.

### **III. STATEMENT OF FACTS**

#### **A. Pinnacle's Business Model**

12. Pinnacle provides alarm security systems and monitoring services to markets across the United States, including Wisconsin, and in Canada.

13. Pinnacle provided goods or services to Wisconsin consumers from January 1, 2007 through August 10, 2010.

14. To market their business, products, and services, Pinnacle uses a variety of marketing techniques, including the internet, mail, but makes most of its sales through unsolicited visits to Wisconsin consumers' homes.

15. Once a consumer agrees to accept the alarm system products and services from Pinnacle, Pinnacle has the consumer sign a standardized contract.

16. Pinnacle then typically installs the alarm system monitoring equipment in the consumer's residence within 24 hours.

17. Pinnacle's contracts require a monthly alarm monitoring fee ranging from \$39.00 to \$49.00, with an activation fee of \$99.00.

18. The initial term of Pinnacle's contract with consumers ranges from 36 to 42 months.

19. Pinnacle used contracts which automatically renew for an additional term after the initial term expires, unless either party cancels within thirty days of the end of the initial term.

**B. Pinnacle Misrepresentations Regarding Its Affiliations**

20. Several Wisconsin consumers solicited by Pinnacle were customers of other home security companies, such as ADT, APX, or FIRST LINE.

21. During several of these solicitations, Pinnacle represented expressly, or by implication, that Pinnacle and the consumers' existing home security company had a business relationship, that Pinnacle had purchased the consumers' existing home security company, or that the consumers' existing home security company was bankrupt and Pinnacle was now serving their customers.

22. In reality, Pinnacle and the consumers' pre-existing home security company are competitors, not affiliated businesses.

**C. Pinnacle's Misrepresentation Regarding Its Response to Alarms**

23. Pinnacle advised consumers that its security system and service package included a rapid response to alarms.

24. Pinnacle's sales agents represented expressly, or by implication, that either police or emergency personnel will respond in person to an alarm.

25. In reality, Pinnacle does not employ any emergency personnel to respond to alarms in person. Pinnacle does not have security professionals on site or in the geographical area of consumers' homes.

26. In municipalities, such as the City of Milwaukee, there is a requirement that alarm agencies must send security agents to respond to the alarm site prior to local law enforcement.

dispatching a response. The City of Milwaukee Public Safety Ordinance 105-75-11, "Prohibited Systems," states:

No person may use or operate, attempt to use or operate, or cause to be used or operated, or arrange, adjust, program or otherwise provide or install any alarm system that will upon activation either mechanically, electronically or by any other automatic means initiate a call and deliver a recorded message to any telephone number of any city of Milwaukee agency.

27. Thus, neither Milwaukee police nor Emergency Medical Services will respond to alarms without a security personnel initially responding to the alarm scene and verifying the existence of an actual, as opposed to a false alarm.

28. Pinnacle failed to disclose verbally or in writing that Milwaukee emergency personnel would not directly respond to alarm activations.

**D. Pinnacle's Sales Misrepresentations Regarding Cost of Services**

29. When initially approached at their homes, consumers are told by Pinnacle that they will receive free security equipment, and in most cases, free installation of the equipment in exchange for allowing Pinnacle to place an advertising sign outside their home.

30. Based on oral representations made by Pinnacle during the course of the sale, many consumers understood the monitoring service was free as well, unaware that they would in fact be charged for the monitoring service.

31. In fact, consumers will be charged for both installation and the monthly monitoring service.

**E. Pinnacle's Refusal to Cancel Contracts or to Discontinue Billing**

32. The Pinnacle contract provides a "Notice of Cancellation" section disclosing the consumer's three-day right to cancel "without penalty or obligation."

33. However, consumers complained Pinnacle did not allow them to exercise their three-day right-to-cancel.

**F. Pinnacle's Monitoring Service Agreement Failure to Comply with the WCA**

34. Pinnacle's Alarm System Installation and Detection Services Agreement ("Service Agreement") is a standard form contract.

35. Pinnacle's Service Agreement discloses credit terms on two separate documents contrary to the requirement they be contained in a single instrument, per Wis. Stat. § 422.303(1).

36. Pinnacle's Service Agreement does not make credit disclosures or included other information in accordance with Wis. Stat. §§ 422.301 and 422.303, of the Wisconsin Consumer Act, which incorporates the disclosures required by the Federal Consumer Credit Protection Act, 15 U.S.C. § 1604, to wit:

- a. Amount Financed;
- b. Finance Charge;
- c. Annual Percentage Rate;
- d. Payment Schedule;
- e. Total of Payments;
- f. Total Sale Price;
- g. Prepayment;
- h. Late Payment;
- i. Security Interest;
- j. Contract Reference; and
- k. Itemization of Amount Financed.

37. Pinnacle's Service Agreement does not contain the Notice to Customer disclosure required by Wis. Stat. § 422.303(3).

38. Pinnacle only provides one copy of the Notice of Cancellation to the customer, in violation of Wis. Stat. § 423.203(1).

39. Pinnacle's Service Agreement allows for the assessment of fees to the customer for licensing costs or permits, which is prohibited by Wis. Stat. § 422.202.



40. Pinnacle's Service Agreement assesses a late fee contrary to that permitted by Wis. Stat. § 422.203.

41. Pinnacle's Service Agreement assesses a returned check fee contrary to that permitted by Wis. Stat. § 422.202.

42. Pinnacle's Service Agreement assesses a charge for collection expenses contrary to that permitted by Wis. Stat. § 422.411.

43. Pinnacle's Service Agreement allows for the assessment of charges for court costs and attorney fees contrary to Wis. Stat. §§ 422.202 and 422.411.

44. Pinnacle's Service Agreement's definition of default violates Wis. Stat. § 425.103, as the actions described therein do not constitute default under the WCA.

45. Pinnacle's Service Agreement does not allow a customer the right to cure default in compliance with Wis. Stat. § 425.105.

46. Pinnacle's Service Agreement allows the company to remove the equipment before the right to cure a default has expired, in violation of Wis. Stat. §§ 425.103 and 425.105.

47. Pinnacle's Service Agreement improperly states that the entire agreement is contained in the written agreement and does not include any oral statements by the company's representatives, in violation of Wis. Stat. § 421.301(3).

#### **H. Pinnacle Targeted Elderly Consumers**

48. Pinnacle misrepresented the terms of the installation of the security system and Service Agreements during sales presentations to consumers over the age of 70, many of whom could not understand the contractual terms.

#### IV. VIOLATIONS

##### COUNT I

##### Fraudulent Representations

##### Wis. Stat. § 100.18

49. Plaintiff re-alleges all preceding paragraphs of the complaint and incorporates them herein.

50. Wisconsin Stat. § 100.18(1) states:

(1) No person, firm, corporation or association, or agent or employee thereof, with intent to sell, distribute, increase the consumption of or in any wise dispose of any real estate, merchandise, securities, employment, service, or anything offered by such person, firm, corporation or association, or agent or employee thereof, directly or indirectly, to the public for sale, hire, use or other distribution, or with intent to induce the public in any manner to enter into any contract or obligation relating to the purchase, sale, hire, use or lease of any real estate, merchandise, securities, employment or service, shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper, magazine or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, letter, sign, placard, card, label, or over any radio or television station, or in any other way similar or dissimilar to the foregoing, an advertisement, announcement, statement or representation of any kind to the public relating to such purchase, sale, hire, use or lease of such real estate, merchandise, securities, service or employment or to the terms or conditions thereof, which advertisement, announcement, statement or representation contains any assertion, representation or statement of fact which is untrue, deceptive or misleading.

51. Pinnacle committed multiple, separate violations of Wis. Stat. § 100.18(1) by making untrue, deceptive, or misleading representations in the course of marketing of its alarm security systems and monitoring services to Wisconsin consumers with intent to induce the consumers to enter into its sales contracts, to wit:

- a. Misrepresented aspects of the response of emergency personnel to alarms;
- b. Misrepresented that by simply placing a sign in their yard, consumers would receive free installation of security equipment, leaving many consumers to understand the monitoring service was free as well; and

- c. Misrepresented that the consumer's current alarm system was bankrupt and/or affiliated with Pinnacle, when in fact neither was true.

**COUNT II**

**Disclosures Prior to Sale – Door-to-Door Sales**

**Wis. Stat. § 100.20, Wis. Admin. Code § ATCP 127.64**

52. Plaintiff re-alleges all preceding paragraphs of the complaint and incorporates them herein.

53. Wisconsin Admin. Code § ATCP 127.64 requires:

(1) DISCLOSURES REQUIRED. In a face-to-face transaction, a seller shall disclose all of the following to a consumer, in writing, before the consumer enters into any purchase contract and before the seller takes the consumer's credit card number or accepts any payment from the consumer:

(a) The nature and quantity of consumer goods or services included in the sale.

(b) The total cost to purchase and receive the consumer goods or services.

(c) All material terms and conditions affecting the sale, receipt or use of the consumer goods or services, including credit terms if any.

(d) The name, mailing address and telephone number of the principal seller.

(e) The seller's policy related to refunds, cancellations, exchanges or repurchases if any of the following apply:

1. The seller has a policy that prevents or substantially limits refunds, cancellations, exchanges or repurchases.

2. The seller makes any claim or representation regarding refunds, cancellations, exchanges or repurchases.

54. Pinnacle committed multiple, separate violations of Wis. Admin. Code. § ATCP 127.64 by failing to accurately disclose, in writing, all material terms and conditions affecting the sale of security products and monitoring services prior to entry into purchase contracts, to wit:

- a. Misrepresented aspects of the response of emergency personnel to alarms;
- b. Misrepresented that by simply placing a sign in their yard, consumers would receive free installation of security equipment, leaving many consumers to understand the monitoring service was free as well; and
- c. Misrepresented that consumer's current alarm system was bankrupt and/or affiliated with Pinnacle, when in fact neither was true.

**COUNT III**

**Misrepresentation – Door-to-Door Sales  
Wis. Stat. § 100.20, Wis. Admin. Code § ATCP 127.72(4)**

55. Plaintiff re-alleges all preceding paragraphs of the complaint and incorporates them herein.

56. Wisconsin Admin. Code §§ ATCP 127.72(1) and (4) require that:

(1) No seller may do any of the following, directly or by implication, in a face-to-face transaction:

...

(4) Misrepresent the cost of goods or services offered or promoted by a seller, or fail to disclose material costs payable by the consumer.

57. Pinnacle committed multiple, separate violations of Wis. Admin. Code. § ATCP 127.72(4) in the course of marketing Pinnacle alarm security systems and monitoring services to Wisconsin consumers through door-to-door solicitations by misrepresenting aspects of the security products and monitoring services, namely, that consumers would only pay for installation of the alarm equipment and not the monitoring service.

**Violations of the Wisconsin Consumer Act**

58. Plaintiff re-alleges all preceding paragraphs of the complaint, and incorporates them herein.

59. The conduct of defendant is governed by the Wisconsin Consumer Act.

**COUNT IV**  
**Failure to Disclose Credit Terms**  
**Wis. Stat. §§ 422.301 and 422.303**

60. Plaintiff re-alleges all preceding paragraphs of the complaint and incorporates them herein.

61. Pinnacle's Service Agreement does not and has not made credit disclosures or included other information in accordance with Wis. Stat. §§ 422.301 and 422.303, of the Wisconsin Consumer Act, which incorporates the disclosures required by the Federal Consumer Credit Protection Act, 15 U.S.C. § 1604. Specifically, Pinnacle has not and does not make the following disclosures clearly and conspicuously before the transaction is consummated, in a single instrument with the signatures of both the consumer and/or Pinnacle:

- a. Amount Financed;
- b. Finance Charge;
- c. Annual Percentage Rate;
- d. Payment Schedule;
- e. Total of Payments;
- f. Total Sale Price;
- g. Prepayment;
- h. Late Payment;
- i. Security Interest;
- j. Contract Reference;
- k. Itemization of Amount Financed; and
- l. Notice to Customer.

**COUNT V**  
**Unlawful Default Policy**  
**Wis. Stat. §§ 425.103, 425.104 and 425.105**

62. Plaintiff re-alleges all preceding paragraphs of the complaint and incorporates them herein.

63. Pinnacle's Service Agreement's definition of default violates Wis. Stat. § 425.103, as the actions described therein do not constitute default under the WCA.

64. Pinnacle's Service Agreement does not allow a customer the right to cure default in compliance with Wis. Stat. §§ 425.103, 425.104 and 425.105.

65. Pinnacle's Service Agreement allows the company to remove the equipment before the right to cure a default has expired, in violation of Wis. Stat. §§ 425.103, 425.104 and 425.105.

**COUNT VI**  
**Lack of Disclosures**  
**Wis. Stat. § 423.203**

66. Plaintiff re-alleges all preceding paragraphs of the complaint and incorporates them herein.

67. Pinnacle provides only one copy of the Notice of Cancellation to the customer, in violation of Wis. Stat. § 423.203(1).

**COUNT VII**  
**Unlawful Assessment of Fees**  
**Wis. Stat. §§ 422.202, 422.203 and 422.411**

68. Plaintiff re-alleges all preceding paragraphs of the complaint and incorporates them herein.

69. Pinnacle's Service Agreement allows for the assessment of fees to the customer for licensing costs or permits, which is prohibited by Wis. Stat. § 422.202.

70. Pinnacle's Service Agreement assesses a returned check fee contrary to that permitted by Wis. Stat. § 422.202.

71. Pinnacle's Service Agreement assesses a late fee contrary to that permitted by Wis. Stat. § 422.203.

72. Pinnacle's Service Agreement assesses a charge for collection expenses contrary to that permitted by Wis. Stat. § 422.411.

73. Pinnacle's Service Agreement allows for the assessment of charges for court costs and attorney fees contrary to Wis. Stat. §§ 422.202 and 422.411.

**COUNT VIII**  
**Unlawful Exclusion of Oral Representations From Agreement**  
**Wis. Stat. § 421.301**

74. Plaintiff re-alleges all preceding paragraphs of the complaint and incorporates them herein.

75. Pinnacle's Service Agreement improperly states that the entire agreement is contained in the written agreement and does not include any oral statements by the company's representatives, contrary to Wis. Stat. § 421.301.

**COUNT IX**  
**Failure to Register**  
**Wis. Stat. § 426.201**

76. Plaintiff re-alleges all preceding paragraphs of the complaint and incorporates them herein.

77. Pinnacle is not registered with the State of Wisconsin pursuant to the WCA, in violation of Wis. Stat. § 426.201.

**COUNT X**  
**Violations against the Elderly**  
**Wis. Stat. § 100.264**

78. Plaintiff re-alleges all preceding paragraphs of the complaint, and incorporates them herein.

79. Pinnacle misrepresented the terms of the installation of the security system and Service Agreement during sales presentations to consumers over the age of 70, many of whom could not understand the contractual terms, in violation of Wis. Stat. § 100.264.

## V. PRAYER FOR RELIEF

**WHEREFORE**, Plaintiff, the State of Wisconsin, demands relief against Pinnacle as follows:

1. Finding that defendant violated Wis. Stat. §§ 100.18, 100.20 and Wis. Admin. Code. ch. ATCP 127 subchapters III and IV.
2. Finding that defendant violated Wis. Stat. chs. 421, 422, 423, 425, and 426, *et seq.*
3. Imposing civil forfeitures against defendant in the amount of not less than \$50.00 nor more than \$200.00 for each violation of Wis. Stat. § 100.18(1), and not less than \$100.00 nor more than \$10,000.00 for each violation of Wis. Admin. Code §§ ATCP 127.64, and 127.72, pursuant to Wis. Stat. §§ 100.20(6) and 100.26(6), plus all applicable assessments.
4. Awarding the state, pursuant to Wis. Stat. § 100.263, the expenses of investigation and prosecution, including attorneys fees, relating to enforcement of defendants' violations of Wis. Stat. § 100.18(1) and Wis. Admin. Code §§ ATCP 127.64, and 127.72.
5. Penalties and forfeitures pursuant to Wis. Stat. § 426.301(1), in the amount of not less than \$100.00 nor more than \$1,000.00 for each violation of Wis. Stat. ch. 421, 422, 423, and 425.
6. Penalties and forfeitures pursuant to Wis. Stat. § 426.203, in the amount of not more than \$50.00 each day, for each violation of Wis. Stat. § 426.201.
7. An order awarding the State, pursuant to Wis. Stat. § 426.110(15) and (16), attorneys fees and costs.
8. Supplemental forfeitures pursuant to Wis. Stat. § 100.264(2) in the amount of not more than \$10,000.00 for each violation of Wis. Stat. §§ 100.18 and 100.20.

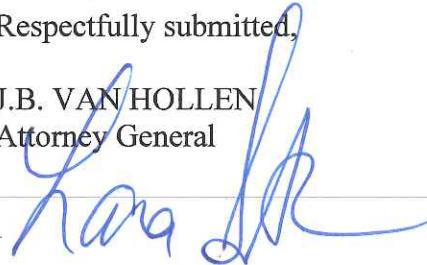


9. Providing such other and further equitable relief as justice and equity may require.

Dated August 30, 2012.

Respectfully submitted,

J.B. VAN HOLLEN  
Attorney General



LARA SUTHERLIN  
Assistant Attorney General  
State Bar #1057096

Attorneys for State of Wisconsin

Wisconsin Department of Justice  
Post Office Box 7857  
Madison, Wisconsin 53707-7857  
(608) 267-7163  
(608) 267-2778 (Fax)  
sutherlinla@doj.state.wi.us