

FILED  
VANESSA L. ARMSTRONG, CLERK

DEC 18 2015

U.S. DISTRICT COURT  
WEST'N. DIST. KENTUCKY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

UNITED STATES OF AMERICA

SECOND SUPERSEDING INDICTMENT

v.

**DEVIN THAUBERGER**

NO. 3:14CR-00111-CRS

18 U.S.C. § 1347 (Counts 1, 2)  
18 U.S.C. § 1028A(a)(1) (Counts 3-6)  
18 U.S.C. § 1028A(c)(5) (Counts 3-6)  
18 U.S.C. § 1512(b)(3) (Count 11)  
18 U.S.C. § 1518(a) (Counts 7-10)  
18 U.S.C. § 982

The Grand Jury alleges:

INTRODUCTION

1. At all times relevant to this Second Superseding Indictment, the defendant, **DEVIN THAUBERGER**, was a doctor of chiropractic medicine, licensed to practice in the state of Kentucky. **DEVIN THAUBERGER** has been a chiropractor for about ten (10) years.

2. At all times relevant to this Second Superseding Indictment, the defendant, **DEVIN THAUBERGER**, operated **THAUBERGER CHIROPRACTIC P.S.C.** ("TCP"), which is a Kentucky corporation, located at 8511 Preston Highway, Louisville, Kentucky. **DEVIN THAUBERGER** has been the president and sole owner of TCP from 2005 through all times relevant to this Indictment.

3. TCP accepts Medicare, Medicaid, Managed Care Organizations ("MCOs") such as Passport, and other private insurance carriers, such as Anthem, Humana, Shelter, Geico, Nationwide, all of which are defined as health care benefit programs in Title 18, United States Code, Section 24.

The Grand Jury charges:

COUNT 1  
(Health Care Fraud)

4. The Grand Jury realleges and incorporates by reference paragraphs 1 through 3 of the Second Superseding Indictment as if fully set forth herein.

5. In or about and between April 2009 and March 2014, in the Western District of Kentucky, Jefferson County, Kentucky, the defendant, **DEVIN THAUBERGER**, aided and abetted by others, known and unknown to the grand jury, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting interstate commerce, that is, Medicare, Medicaid, Passport, Anthem, Humana, Geico, Shelter, Nationwide, and other insurance carriers, to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said health care benefit programs to wit: **DEVIN THAUBERGER** submitted claims for services for the below patient and insured, which were never performed, including, but not limited to the following:

<b>DATES</b>	<b>PATIENT/INSURED NAME</b>	<b>INSURANCE</b>
06/19/09 – 08/22/11	J.M.B.	Anthem
05/19/09 – 04/08/13	A.E.	Passport
04/12/11 – 11/19/13	C.D.	Passport
06/09/10 – 04/03/13	A.H.	Passport
03/30/11 – 04/03/13	J.H.	Passport
03/28/11 – 07/11/11	R.J.	Medicaid
10/03/11 – 04/09/13	T.R.	Anthem
08/22/12 – 11/25/13	J.B.	Medicare

In violation of Title 18, United States Code, Section 1347.

The Grand Jury further charges:

COUNT 2  
(Health Care Fraud)

6. The Grand Jury realleges and incorporates by reference paragraphs 1 through 5 of the Second Superseding Indictment as if fully set forth herein.

7. In or about and between May 2015 and July 2015, in the Western District of Kentucky, Jefferson County, Kentucky, the defendant, **DEVIN THAUBERGER**, aided and abetted by others, known and unknown to the grand jury, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting interstate commerce, that is, Allstate, to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said health care benefit programs to wit: **DEVIN THAUBERGER** submitted claims for services which were never performed including, but not limited to the following:

DATES	PATIENT	INSURANCE
05/27/15	D.G.	Allstate
06/01/15	D.G.	Allstate
06/29/15	D.G.	Allstate
07/15/15	D.G.	Allstate
07/17/15	D.G.	Allstate

In violation of Title 18, United States Code, Section 1347.

The Grand Jury further charges:

COUNTS 3 - 6  
(Aggravated Identity Theft)

8. The Grand Jury realleges paragraphs 1 through 7 of the Second Superseding Indictment as if set forth in full herein.

9. On the dates listed below, in the Western District of Kentucky, Jefferson County, Kentucky, the defendant, **DEVIN THAUBERGER**, aided and abetted by another, knowingly transferred, possessed, and used, without authority, a means of identification of another person, as listed below: to wit, during and in relation to the health care fraud in violation of Title 18, United States Code, Section 1347, as charged in Count 1.

COUNT	DATE	PATIENT/INSURED NAME	INSURANCE
3	02/01/10	A.W.	Passport
4	06/09/10	A.H.	Passport
5	09/13/11	E.D.	Passport
6	11/29/12	J.H.	Passport

In violation of Title 18, United States Code, Sections 1028A(a)(1), (c)(5), and 2.

The Grand Jury further charges:

COUNTS 7 - 10  
(Obstruction of Criminal Investigation)

10. The Grand Jury realleges paragraphs 1 through 9 of the Second Superseding Indictment as if set forth in full herein.

11. On the dates listed below, in the Western District of Kentucky, Jefferson County, Kentucky, the defendant, **DEVIN THAUBERGER**, did willfully prevent, obstruct, mislead, and delay and attempt to prevent, obstruct, mislead or delay the communication of information and records related to a violation of a Federal health care offense to a criminal investigator: to wit, the defendant altered, or caused to be altered, patient records, and attempted to influence the testimony of witnesses as indicated below:

COUNT	DATE	NAME	EVENT
7	08/2013 – 09/2013	J.W.	Employee instructed to alter patient records
8	2013	H.B.	Employee instructed to alter patient records
9	11/25/13	J.M.B. and J.B.	Patients contacted by Thauberger
10	07/11/14	C.D.	Patient contacted by Thauberger

In violation of Title 18, United States Code, Section 1518(a).

The Grand Jury further charges:

COUNT 11  
(Tampering with a Witness)

12. The Grand Jury realleges paragraphs 1 through 11 of the Second Superseding Indictment as if set forth in full herein.

13. Beginning on or about the October 22, 2015, and continuing until at least November 8, 2015, in the Western District of Kentucky, the defendant, **DEVIN THAUBERGER**, did knowingly attempt to intimidate, threaten, corruptly persuade, and engage in misleading conduct towards F.P., by contacting F.P. at F.P.'s home with the intent to hinder, delay, and

prevent the communication to a law enforcement officer of information relating to the commission and possible commission of a Federal offense, i.e. health care fraud.

In violation of Title 18, United States Code, Section 1512(b)(3).

NOTICE OF FORFEITURE

As a result of committing violations of Title 18, United States Code, Section 1347, as alleged in Counts 1 and 2 of this Second Superseding Indictment, the defendant shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982, any and all property, real and personal, that constitutes or is derived, directly and indirectly, from gross proceeds obtained as a result of the offenses alleged in Counts 1 and 2 of this Second Superseding Indictment.

Pursuant to Title 18, United States Code, Section 982.

A TRUE BILL.

**Redacted**

FORÉPERSON



JOHN E. KUHN, JR.  
UNITED STATES ATTORNEY

JEK:LJW:cd:20151112

UNITED STATES OF AMERICA v DEVIN THAUBERGER

PENALTIES

Counts 1, 2: NM 10 yrs./\$250,000/both/NM 3 yrs. Supervised Release (each count)  
 Counts 3-6: 2 yrs. consecutive/\$250,000/both/NM 3 yrs. Supervised Release (each count)  
 Counts 7-10: NM 5 yrs./\$250,000/both/NM 3 yrs. Supervised Release (each count)  
 Count 11: NM 20 yrs./\$250,000/both/NM 3 yrs. Supervised Release  
 Forfeiture

NOTICE

ANY PERSON CONVICTED OF AN OFFENSE AGAINST THE UNITED STATES SHALL BE SUBJECT TO SPECIAL ASSESSMENTS, FINES, RESTITUTION & COSTS.

SPECIAL ASSESSMENTS

18 U.S.C. § 3013 requires that a special assessment shall be imposed for each count of a conviction of offenses committed after November 11, 1984, as follows:

Misdemeanor:	\$ 25 per count/individual	Felony:	\$100 per count/individual
	\$125 per count/other		\$400 per count/other

FINES

In addition to any of the above assessments, you may also be sentenced to pay a fine. Such fine is due immediately unless the court issues an order requiring payment by a date certain or sets out an installment schedule. You shall provide the United States Attorney's Office with a current mailing address for the entire period that any part of the fine remains unpaid, or you may be held in contempt of court. 18 U.S.C. § 3571, 3572, 3611, 3612

Failure to pay fine as ordered may subject you to the following:

1. INTEREST and PENALTIES as applicable by law according to last date of offense.

For offenses occurring after December 12, 1987:

No INTEREST will accrue on fines under \$2,500.00.

INTEREST will accrue according to the Federal Civil Post-Judgment Interest Rate in effect at the time of sentencing. This rate changes monthly. Interest accrues from the first business day following the two week period after the date a fine is imposed.

PENALTIES of:

10% of fine balance if payment more than 30 days late.

15% of fine balance if payment more than 90 days late.

2. Recordation of a LIEN shall have the same force and effect as a tax lien.
3. Continuous GARNISHMENT may apply until your fine is paid.

18 U.S.C. §§ 3612, 3613

If you WILLFULLY refuse to pay your fine, you shall be subject to an ADDITIONAL FINE of not more than the greater of \$10,000 or twice the unpaid balance of the fine; or IMPRISONMENT for not more than 1 year or both. 18 U.S.C. § 3615



RESTITUTION

If you are convicted of an offense under Title 18, U.S.C., or under certain air piracy offenses, you may also be ordered to make restitution to any victim of the offense, in addition to, or in lieu of any other penalty authorized by law. 18 U.S.C. § 3663

APPEAL

If you appeal your conviction and the sentence to pay your fine is stayed pending appeal, the court shall require:

1. That you deposit the entire fine amount (or the amount due under an installment schedule during the time of your appeal) in an escrow account with the U.S. District Court Clerk, or
2. Give bond for payment thereof.

18 U.S.C. § 3572(g)

PAYMENTS

If you are ordered to make payments to the U.S. District Court Clerk's Office, certified checks or money orders should be made payable to the Clerk, U.S. District Court and delivered to the appropriate division office listed below:

LOUISVILLE: Clerk, U.S. District Court  
106 Gene Snyder U.S. Courthouse  
601 West Broadway  
Louisville, KY 40202  
502/625-3500

BOWLING GREEN: Clerk, U.S. District Court  
120 Federal Building  
241 East Main Street  
Bowling Green, KY 42101  
270/393-2500

OWENSBORO: Clerk, U.S. District Court  
126 Federal Building  
423 Frederica  
Owensboro, KY 42301  
270/689-4400

PADUCAH: Clerk, U.S. District Court  
127 Federal Building  
501 Broadway  
Paducah, KY 42001  
270/415-6400

If the court finds that you have the present ability to pay, an order may direct imprisonment until payment is made.



FORM DBD-34  
JUN.85

No. 3:14CR-111-CRS

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**UNITED STATES DISTRICT COURT**

Western District of Kentucky  
Louisville Division

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THE UNITED STATES OF AMERICA

vs.

DEVIN THAUBERGER

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**SECOND SUPERSEDING INDICTMENT**

Title 18 U.S.C. §§ 1347; 1028A(a)(1);  
1028A(c)(5); 2; 1518(a); 1512(b)(3):  
Health Care Fraud; Aiding and Abetting;  
Aggravated Identity Theft; Obstruction of a  
Criminal Investigation; Tampering with  
Witnesses.

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A true

**Redacted**

Foreman

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Filed in open court this 16<sup>th</sup> day, of December, A.D. 2015.

Clerk

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Bail, \$

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**FILED**  
VANESSA L. ARMSTRONG, CLERK

DEC 16 2015

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WEST'N. DIST. KENTUCKY