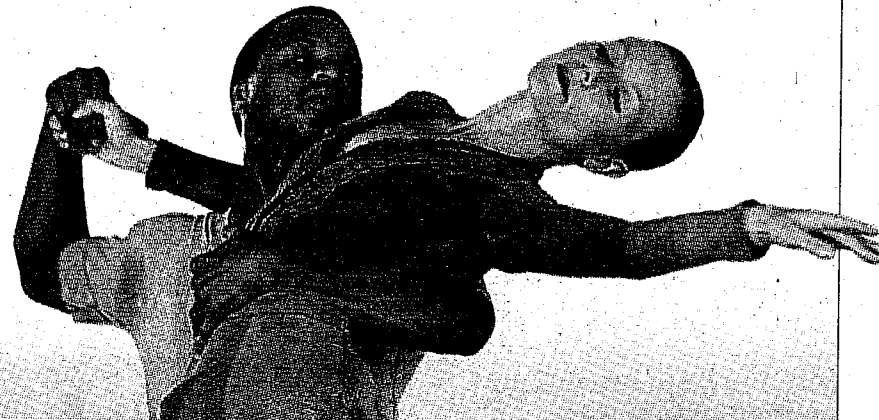




# KC BALLET

The season-opening program includes 'Afternoon of a Faun.'

FYI



The Giants beat the Braves and will face the Cardinals.

SPORTS

# THE KANSAS CITY STAR.

50¢ METROPOLITAN EDITION ★

www.kansascity.com

Tuesday, October 8, 2002

## Boy hit as sniper strikes again

Teen shot outside D.C.-area school

By FRANCIS X. CLINES  
The New York Times

BOWIE, Md. — A 13-year-old student was critically wounded Monday at the entrance of his school, in the eighth attack linked to a roving sniper who has killed six adults in suburban Washington.

All available uniformed police were assigned to guard schools in a show of force that included uniformed members of the Secret Service, who usually guard the president and embassies in downtown Washington.

"All of our victims have been innocent, have been defenseless, but now they're stepping over the line, because our children don't deserve this," Montgomery County Police Chief Charles Moose said.

Moose was teary-eyed and angry after five days of searching for the sniper, who has chosen victims seemingly at random and killed them from afar with single-shot accuracy.

The shooting Monday, which was outside Benjamin Tasker Middle School in Prince George's County, prompted school officials to tightly restrict public student activities from Washington through the Maryland and Virginia suburbs, and even in Baltimore, 40 miles north. Teachers at some schools masked ground-floor windows with paper.

Area police intensified their manhunt. The public called in with information about a white vehicle that might have fled the area after the shooting.

The school is an easy highway drive from Montgomery County,

See SHOOTINGS, A-11



EVAN VUCCI/The Associated Press  
Virginia Lovett comforted her daughter Kamil, 11, who attends the middle school where a sniper wounded a 13-year-old student.

## COURTNEY DRUGMAKERS SETTLE

Two companies reach accord in more than 300 cases



### THE DETAILS

■ **WHAT HAPPENED MONDAY:** Two drug companies settled more than 300 lawsuits filed over Robert Courtney's drug dilution scheme. The terms of the settlement were not disclosed.

■ **WHAT'S AHEAD:** The case continues against Courtney and his pharmacy. Opening statements are set for today.

Courtney

By DAN MARGOLIES  
and MATT CAMPBELL  
The Kansas City Star

Two drug companies on Monday settled more than 300 lawsuits alleging that they had negligently failed to prevent former Kansas City pharmacist Robert Courtney from diluting cancer medications. The terms of the settlement by Eli Lilly and Co. and Bristol-Myers

Squibb Co. were not disclosed, and the parties said they would remain confidential.

The settlement came as jury selection in the first of the cases was nearing completion. The case, which was brought by ovarian cancer patient Georgia Hayes, continues against Courtney and his Research Medical Tower Pharmacy.

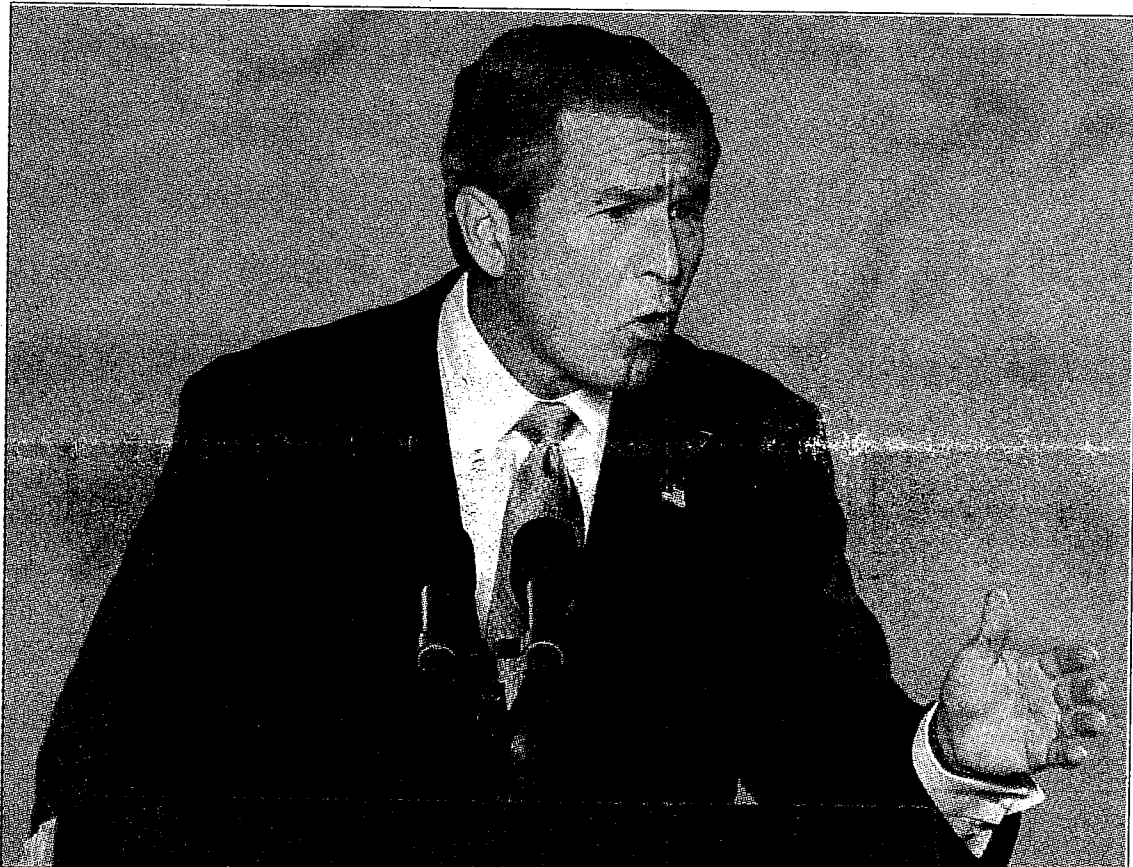
A panel of 11 women and four men — three alternates were cho-

sen — will hear opening statements today in the courtroom of Senior Jackson County Circuit Judge Lee Wells.

The settlement was reached over the weekend in court-ordered mediation sessions conducted by Susan Soussan, a professional mediator and former Houston judge. The sessions had continued during jury

See COURTNEY, A-5

## BUSH OUTLINES CASE FOR WAR, saying Iraq poses unique threat to U.S., world



AL BEHRMAN/The Associated Press

"The time for denying, deceiving and delaying has come to an end."

President Bush, in making his case to the nation Monday for action against Iraq

## President makes appeal for support

By RON HUTCHESON  
Knight Ridder Newspapers

CINCINNATI — Trying to rally the nation and the world behind a possible attack on Iraq, President Bush on Monday night called the Iraqi regime the single gravest danger confronting mankind.

"While there are many dangers in the world, the threat from Iraq stands alone, because it gathers the most serious dangers of our age in one place," Bush said, citing Iraq's pursuit of chemical, biological and nuclear weapons.

"By its past and present actions, by its technological capabilities, by the merciless nature of its regime, Iraq is unique."

Bush traveled to Cincinnati to present his most detailed case yet for war with Iraq, one year after

launching the first air strikes against Afghanistan in response to the Sept. 11 terrorist attacks.

Although the half-hour speech offered no new information, Bush said past events and recent evidence of Iraq's weapons programs showed that Iraq was a unique and immediate threat.

"He said his sense of urgency was heightened by fears that Iraq might team up with terrorists to attack the United States."

"Iraq could decide on any given day to provide a biological or chemical weapon to a terrorist group or individual terrorists," Bush said. "Terror cells and outlaw regimes building weapons of mass destruction are different faces of the same evil. Our security requires that we confront both."

Although the prime-time address was timed to

See BUSH, A-5

INSIDE: Full text of president's speech in Cincinnati, analysis, A-4

## Bold moves needed to protect public

Closer scrutiny of pharmacies would bolster confidence

By DONNA MCGUIRE  
and MARK MORRIS  
© 2002, The Kansas City Star

Pharmacy professionals and regulators never want to see another year like 2001.

They wonder how they can prevent what happened then: thousands of Kansas City-area cancer patients worrying whether they received full-strength chemotherapy doses from their pharmacist, and three California families grieving over deaths caused by inadequate sterilization techniques at a pharmacy that made its own painkilling drugs.

Robert R. Courtney's drug-dilution scheme in Kansas City and the Doc's Pharmacy tragedy in Walnut Creek, Calif., are shaking the public's confidence in pharmacy — a profession ranked for years among the most trusted in the nation.

But things can be done to restore that trust, *The Kansas City Star* found.

At the very least, experts say, state regulators need to hire more inspectors, toughen their compounding regulations and require more training for pharmacy technicians, who can compound drugs in most states.

While it drafts new laws and regulations, the U.S. Food and Drug Administration can enforce existing laws that prohibit compounders from crossing the line into manufacturing large quantities of new untested drugs.

But for real reform, some experts say the pharmacy profession must consider bold new ideas to stop future Courtneys and shield patients from miscompounded drugs. They include monitoring drug sales from the manufacturers to the doctors' offices, randomly testing compounded drugs for safety, and tracking patients closely for adverse drug reactions.

### SOME SOLUTIONS TO CONSIDER

Enacting a number of suggested changes could reduce the chances that drugs will be wrongly mixed.



■ **Toughen** compounding regulations.

■ **Hire** more state inspectors.

■ **Enforce** laws prohibiting compounders from manufacturing large quantities of drugs.

■ **Monitor** drug sales from the manufacturers to the doctors' offices.

■ **Randomly** test compounded drugs for safety.

■ **Monitor** patients for adverse drug reactions.

■ **Track** pharmacy errors and the injuries they cause.

■ **Require** more training for pharmacy technicians.

It's also time, experts say, for all states to track all pharmacy errors and the injuries they cause. By studying those cases, regulators and pharmacists can learn how to prevent them from happening again.

U.S. Sen. Kit Bond of Missouri said recently that state and federal

See DRUGS, A-6

## Judge orders witness held on day 1 of Robinson trial

By TONY RIZZO  
The Kansas City Star

The first day of testimony in the John E. Robinson Sr. trial ended Monday with a state witness under arrest after she told the judge she would not return today.

The day began with opening statements in which lawyers on both sides told jurors what the evidence would show.

District Attorney Paul Morrison mapped out the prosecution's case, saying it would be "crystal clear" to jurors that "the defendant has been killing women for over 17 years."

In his turn, defense attorney Sean O'Brien criticized the investigation that led to capital-murder charges against Robinson, 58.

"This was not so much a murder investigation as it was a John Robinson investigation," O'Brien said. "He was the only suspect ever seriously pursued."

Outside the courtroom it was hard to tell that a jury was hearing the first capital-murder case in Johnson County since Kansas reinstated the death penalty in 1994. Two-thirds of the public passes to the trial hung unused in a court office, and a long strip of curb reserved for media parking had only three television vehicles at mid-morning.

For the first 90 minutes Monday, Morrison and O'Brien gave the jury their positions on what the evi-

See ROBINSON, A-12

www.kansascity.com

### WEATHER

High 73, Low 49  
Mostly sunny  
Forecast, C-8

### DEPARTMENTS

123rd year, No. 21 6 sections  
ADVICE E-3 METROPOLITAN B-1  
BUSINESS D-1 MOVIES E-5  
CLASSIFIED F-7 OPINION B-6, 7  
COMICS E-6, 7 PUZZLES E-2, F-3  
DEATHS B-4, 5 SPORTS C-1  
FIN E-1 TV E-8  
LOTTERIES B-2



## Breakup of health system announced

St. Luke's-Shawnee Mission team to end

By JULIUS A. KARASH  
The Kansas City Star

St. Luke's-Shawnee Mission Health System, the area's second-largest health system, is breaking up.

In a joint announcement Monday, the parties said their six-year partnership agreement would dissolve effective Nov. 1.

Officials with St. Luke's Health System and Shawnee Mission Medical Center said patients should not have to change hospitals because of the split.

"This should not affect patients in any way," said G. Richard Hastings, president and chief executive officer of St. Luke's-Shawnee Mission Health System.

Hastings and Sam Turner, president and chief executive officer of Shawnee Mission, said some physicians who now are on staff at both St. Luke's and Shawnee Mission may decide to practice at one or the other. That choice will be up to the physicians, they said.

If a physician gives up staff privileges at a hospital, then he or she cannot directly admit patients to that hospital. The doctor, however, could still refer patients to a physician who has staff privileges at the hospital in question, and that doctor could admit the patient to that hospital. As a result, patients would not necessarily have to change hospitals if their doctor gave up

See SPLIT, A-7

# COURTNEY: Drugmakers settle lawsuits

Continued from A-1

selection.

In a joint statement the drug companies said the mediation "forced all parties to take an additional hard look at this case and to carefully consider the emotional impact of protracted litigation on the plaintiffs."

Rebecca O. Kendall, senior vice president and general counsel for Indianapolis-based Eli Lilly, said the "decision to settle was based primarily upon the fact that under Missouri law, even if a jury were to find us just 1 percent at fault in this matter, we could potentially be required to pay 100 percent of the damages awarded by the jury."

"This horrible crime occurred because Robert Courtney breached his professional duty as a pharmacist," Kendall said. "Robert Courtney took a perfectly good drug and, totally without our knowledge, criminally diluted it.

"We are enraged by his contempt for the very patients he had a solemn obligation to help."

Courtney was arrested in August 2001 after oncologist Verda Hunter, for whom Courtney mixed cancer drugs, had some samples tested and discovered that they had been watered down.

In February, Courtney pleaded guilty to adulterating cancer drugs he prepared for 34 cancer patients of Hunter's, including Hayes, between March and June 2001. He later told law enforcement officials that he had been diluting chemotherapy drugs since at least 1992 and that he had diluted scores of other drugs as well.

Courtney faces up to 30 years in prison at his sentencing, which is set for December.

Courtney's criminal conduct triggered hundreds of civil lawsuits by cancer patients or their families. The lawsuits were filed not just against Courtney but also against Eli Lilly and New York-based Bristol-Myers, which manufactured the cancer drugs he mixed.

Lilly makes the cancer drug Gemzar. Bristol-Myers makes Taxol and other anti-cancer drugs.

## Allegations, answers

The lawsuits alleged that the drug companies knew or should have known that Courtney was diluting the drugs, because they had sales data showing that he had sold much greater quantities of drugs than he had bought.

Both companies purchased the data from IMS Health, which tracks



FRED BLOCHER/The Kansas City Star  
Cancer patient Georgia Hayes (center) and lawyers Grant Davis (left) and Michael Ketchmark talked with reporters Monday after two companies settled lawsuits filed in the Courtney case. Hayes filed the first lawsuit.

billions of drug prescriptions through the distribution chain. Bristol-Myers also has its own tracking system.

The drug companies steadfastly denied liability, saying the data were incomplete and were used to determine sales representatives' compensation and quotas, not to uncover criminal conduct. The companies insisted that they learned of Courtney's scam only after he was arrested in August 2001.

The financial stakes were potentially enormous for the companies. They faced the prospect of having to defend themselves before a jury amid what was sure to be emotional testimony by cancer patients and their loved ones.

"When you go before a jury in a case where there has been outrageous conduct by one of the defendants, the other defendants are rolling the dice for really big stakes," said David Achtenberg, a law professor at the University of Missouri-Kansas City School of Law. "A jury faced with outrageous conduct tends to be very generous in assessing the damages of the victims."

Attorneys for the plaintiffs had fought bitterly with the drug companies since the first lawsuits were filed last fall, but they were conciliatory Monday after the settlement was announced. In a written statement, plaintiffs' attorney Grant Davis said his clients were "happy to have resolved this dispute" and praised Eli Lilly and Bristol-Myers as "good companies" that are "committed to fighting cancer."

"The case was complicated both

with respect to the law and the facts," Davis said. "For example, we never claimed that Eli Lilly or Bristol-Myers Squibb intentionally ignored Courtney's criminal conduct."

Another plaintiffs' attorney, Michael Ketchmark, also lauded the companies.

"We applaud Eli Lilly and Bristol-Myers Squibb for their actions today in settling this case," Ketchmark said in a written statement.

If the companies faced risks going to trial, the plaintiffs likewise faced uncertainties. Their attempt to hold the companies liable essentially sought to break new legal ground by asserting that the companies had an obligation to go to the aid of a person in danger. An established legal principle holds that there is no duty to rescue someone from the wrongful conduct of another.

Eli Lilly and Bristol-Myers had argued that they had no duty to protect the plaintiffs from Courtney's intentional, unforeseeable criminal acts.

Eli Lilly was particularly incensed about being sued, because, it said, one of its own salesmen, Darryl Ashley, had helped uncover Courtney's scheme. Ashley told Hunter's office about the gaps in Courtney's sales data, prompting Hunter to have some of the drug samples tested.

"Darryl Ashley is a good person who was placed in a horrible situation as a result of Courtney's crimes," Ketchmark said.

The plaintiffs claimed that Ashley became aware that Courtney was

selling more drugs than he was buying as early as 1998. Ashley's sales commission was based on what Courtney purchased from the wholesaler of Lilly's drugs, and Ashley thought he was not getting credit for the full amount, according to the plaintiffs.

Lilly then allegedly agreed to pay Ashley based on what Courtney sold to Hunter and other physicians. That, the plaintiffs contended, proved Lilly knew of the gaps in Courtney's sales data and knew he was diluting drugs. Lilly retorted that it merely showed that the sales data were not definitive and that the company agreed that Ashley was not getting full credit for Courtney's purchases.

Similarly, the plaintiffs alleged that Bristol-Myers, which unlike Eli Lilly sold its cancer drugs directly to Courtney, suspected that Courtney was diluting drugs long before his scheme was uncovered. They pointed to a memo from a sales representative that referred to a possible "concentration/dilution" problem after nurses in Hunter's office noted the alleged lack of side effects in their patients.

Bristol-Myers said the memo was quoted out of context.

## Trial continues

With the drug companies out of the litigation, only Courtney and his pharmacy remain as defendants — a vastly simpler case, given Courtney's guilty plea, than the one against the drug companies. The lawsuits by Hayes and the other plaintiffs accuse Courtney and his pharmacy of wrongful death, fraud and other claims.

Courtney has already forfeited most of his estimated \$8 million to \$12 million in assets to the government, but he was also covered by business and personal malpractice insurance policies. The policies are thought to amount to millions of dollars.

Earlier this year Courtney's liability carrier, Pharmacists Mutual Cos. of Iowa, asked a federal judge to declare that none of Courtney's drug-dilution conduct was covered by the policies. The case is pending.

Ketchmark said that despite the settlement Monday with the drug companies, it was important to proceed with the civil trial against Courtney and his pharmacy.

"It's important that the story of what happened here gets out," Ketchmark said. "Georgia Hayes is committed to that and to having her day in court."