

IN THE UNITED STATES DISTRICT COURT
 FOR THE WESTERN DISTRICT OF MISSOURI
 WESTERN DIVISION



UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

ROBERT RAY COURTNEY,)
 [DOB: 09/28/52],)

and)

COURTNEY PHARMACY, INC.)
 d/b/a RESEARCH MEDICAL)
 TOWER PHARMACY)

Defendants.)

Both Defendants Charged)
 in All Counts)

Maximum Punishment if)
 Courtney Pharmacy, Inc.,)
 d/b/a Research Medical Tower)
 Pharmacy, is Convicted of)
 All Counts:)
 \$10 Million Fine)
 \$8,000 Special Assessment)
 5 Years Probation)
 Order of Restitution)
 Costs of Prosecution)

No. 01- 00253-01/02-CR-W-3

COUNTS ONE through EIGHT)
 Tampering with Consumer Products)
 18 U.S.C. §§ 1365(a) and 1365(a)(3))
 As to each count:)

NMT 20 Years and \$250,000)
 Sup. Release: NMT 3 Years)
 \$100 Special Assessment)
 Order of Restitution)
 Class C Felony)

COUNTS NINE, ELEVEN, THIRTEEN,)
 FIFTEEN, SEVENTEEN, and NINETEEN)
 Adulteration of a Drug)
 21 U.S.C. §§ 331(k) and 333(a)(2))

As to each count:)
 NMT 3 Years and \$250,000)
 Sup. Release: NMT 1 Year)
 \$100 Special Assessment)
 Order of Restitution)
 Class E Felony)

COUNTS TEN, TWELVE, FOURTEEN,)
 SIXTEEN, EIGHTEEN, and TWENTY)
 Misbranding of a Drug)
 21 U.S.C. §§ 331(k) and 333(a)(2))

As to each count:)
 NMT 3 Years and \$250,000)
 Sup. Release: NMT 1 Year)
 \$100 Special Assessment)
 Order of Restitution)
 Class E Felony)

Maximum Punishment if)
 Robert Ray Courtney is)
 Convicted of all Counts:)

196 Years Imprisonment)
 \$5 Million Fine)
 \$2,000 Special Assessment)
 3 Years Supervised Release)
 Order of Restitution)
 Costs of Prosecution)

ORIGINAL

DOCUMENT # 10

I N D I C T M E N T

THE GRAND JURY CHARGES THAT:

COUNT ONE

(Tampering with a Consumer Product)

On or about the 17th day of May, 2001, in Kansas City, Jackson County, within the Western District of Missouri, with reckless disregard for and extreme indifference to the risk that another person would be placed in danger of death or bodily injury and in a manner that affected interstate commerce, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, did tamper with a consumer product and the labeling of and container for such consumer product, in that the defendants mixed, prepared, and delivered an intravenous drug mixture knowing it did not contain the amount of prescription chemotherapy drug Taxol® ordered by the treating physician, which resulted in serious bodily injury to and involved a substantial risk of death to the affected patient, herein referred to as patient T1.

All in violation of 18 U.S.C. §§ 1365(a) and 1365(a)(3).

COUNT TWO

(Tampering with a Consumer Product)

On or about the 29th day of May, 2001, in Kansas City, Jackson County, within the Western District of Missouri, with

reckless disregard for and extreme indifference to the risk that another person would be placed in danger of death or bodily injury and in a manner that affected interstate commerce, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, did tamper with a consumer product and the labeling of and container for such consumer product, in that the defendants mixed, prepared, and delivered an intravenous drug mixture knowing it did not contain the amount of prescription chemotherapy drug Gemzar® ordered by the treating physician, which resulted in serious bodily injury to and involved a substantial risk of death to the affected patient, herein referred to as patient G1.

All in violation of 18 U.S.C. §§ 1365(a) and 1365(a) (3).

COUNT THREE

(Tampering with a Consumer Product)

On or about the 30th day of May, 2001, in Kansas City, Jackson County, within the Western District of Missouri, with reckless disregard for and extreme indifference to the risk that another person would be placed in danger of death or bodily injury and in a manner that affected interstate commerce, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, did tamper with a consumer product and the labeling of and container for such consumer

product, in that the defendants mixed, prepared, and delivered an intravenous drug mixture knowing it did not contain the amount of prescription chemotherapy drug Gemzar® ordered by the treating physician, which resulted in serious bodily injury to and involved a substantial risk of death to the affected patient, herein referred to as patient G2.

All in violation of 18 U.S.C. §§ 1365(a) and 1365(a)(3).

COUNT FOUR

(Tampering with a Consumer Product)

On or about the 30th day of May, 2001, in Kansas City, Jackson County, within the Western District of Missouri, with reckless disregard for and extreme indifference to the risk that another person would be placed in danger of death or bodily injury and in a manner that affected interstate commerce, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, did tamper with a consumer product and the labeling of and container for such consumer product, in that the defendants mixed, prepared, and delivered an intravenous drug mixture knowing it did not contain the amount of prescription chemotherapy drug Gemzar® ordered by the treating physician, which resulted in serious bodily injury to and involved a substantial risk of death to the affected patient,

herein referred to as patient G3.

All in violation of 18 U.S.C. §§ 1365(a) and 1365(a)(3).

COUNT FIVE

(Tampering with a Consumer Product)

On or about the 30th day of May, 2001, in Kansas City, Jackson County, within the Western District of Missouri, with reckless disregard for and extreme indifference to the risk that another person would be placed in danger of death or bodily injury and in a manner that affected interstate commerce, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, did tamper with a consumer product and the labeling of and container for such consumer product, in that the defendants mixed, prepared, and delivered an intravenous drug mixture knowing it did not contain the amount of prescription chemotherapy drug Gemzar® ordered by the treating physician, which resulted in serious bodily injury to and involved a substantial risk of death to the affected patient, herein referred to as patient G4.

All in violation of 18 U.S.C. §§ 1365(a) and 1365(a)(3).

COUNT SIX

(Tampering with a Consumer Product)

On or about the 4th day of June, 2001, in Kansas City, Jackson County, within the Western District of Missouri, with

reckless disregard for and extreme indifference to the risk that another person would be placed in danger of death or bodily injury and in a manner that affected interstate commerce, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, did tamper with a consumer product and the labeling of and container for such consumer product, in that the defendants mixed, prepared, and delivered an intravenous drug mixture knowing it did not contain the amount of prescription chemotherapy drug Gemzar® ordered by the treating physician, which resulted in serious bodily injury to and involved a substantial risk of death to the affected patient, herein referred to as patient G5.

All in violation of 18 U.S.C. §§ 1365(a) and 1365(a)(3).

COUNT SEVEN

(Tampering with a Consumer Product)

On or about the 5th day of June, 2001, in Kansas City, Jackson County, within the Western District of Missouri, with reckless disregard for and extreme indifference to the risk that another person would be placed in danger of death or bodily injury and in a manner that affected interstate commerce, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, did tamper with a consumer product and the labeling of and container for such consumer

product, in that the defendants mixed, prepared, and delivered an intravenous drug mixture knowing it did not contain the amount of prescription chemotherapy drug Gemzar® ordered by the treating physician, which resulted in serious bodily injury to and involved a substantial risk of death to the affected patient, herein referred to as patient G6.

All in violation of 18 U.S.C. §§ 1365(a) and 1365(a)(3).

COUNT EIGHT

(Tampering with a Consumer Product)

On or about the 5th day of June, 2001, in Kansas City, Jackson County, within the Western District of Missouri, with reckless disregard for and extreme indifference to the risk that another person would be placed in danger of death or bodily injury and in a manner that affected interstate commerce, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, did tamper with a consumer product and the labeling of and container for such consumer product, in that the defendants mixed, prepared, and delivered an intravenous drug mixture knowing it did not contain the amount of prescription chemotherapy drug Taxol® ordered by the treating physician, which resulted in serious bodily injury to and

involved a substantial risk of death to the affected patient, herein referred to as patient T2.

All in violation of 18 U.S.C. §§ 1365(a) and 1365(a)(3).

COUNT NINE

(Adulteration of a Drug)

On or about the 7th day of August, 2001, in Kansas City, Jackson County, within the Western District of Missouri, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, with the intent to defraud and mislead, caused a quantity of the prescription drug Gemzar®, hereafter referred to as G7, to be adulterated while G7 was being held for sale after being shipped in interstate commerce; specifically, the defendants caused G7 to be adulterated pursuant to 21 U.S.C. § 351(c), in that the defendants purported and represented that the strength of the drug, and its purity and quality, were greater than they in fact were, and defendants caused G7 to be adulterated pursuant to 21 U.S.C. § 351(d), in that defendants mixed a substance with G7 so as to reduce G7's quality and strength, and in that defendants substituted a substance wholly or in part for G7.

All in violation of 21 U.S.C. §§ 331(k) and 333(a)(2).

COUNT TEN

(Misbranding of a Drug)

On or about the 7th day of August, 2001, in Kansas City, Jackson County, within the Western District of Missouri, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, with the intent to defraud and mislead, caused a quantity of the prescription drug Gemzar®, hereafter referred to as G7, to be misbranded within the meaning of 21 U.S.C. § 352(a), while the G7 was being held for sale after being shipped in interstate commerce, in that its labeling was false and misleading because the label represented a strength and potency of the Gemzar® in the intravenous drug mixture that defendants knew did not reflect the actual strength and potency of the drug.

All in violation of 21 U.S.C. §§ 331(k) and 333(a)(2).

COUNT ELEVEN

(Adulteration of a Drug)

On or about the 7th day of August, 2001, in Kansas City, Jackson County, within the Western District of Missouri, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, with the intent to defraud and mislead, caused a quantity of the prescription drug Gemzar®, hereafter referred to as G8, to be adulterated while G8 was being

held for sale after being shipped in interstate commerce; specifically, the defendants caused G8 to be adulterated pursuant to 21 U.S.C. § 351(c), in that the defendants purported and represented that the strength of the drug, and its purity and quality, were greater than they in fact were, and defendants caused G8 to be adulterated pursuant to 21 U.S.C. § 351(d), in that defendants mixed a substance with G8 so as to reduce G8's quality and strength, and in that defendants substituted a substance wholly or in part for G8.

All in violation of 21 U.S.C. §§ 331(k) and 333(a)(2).

COUNT TWELVE

(Misbranding of a Drug)

On or about the 7th day of August, 2001, in Kansas City, Jackson County, within the Western District of Missouri, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, with the intent to defraud and mislead, caused a quantity of the prescription drug Gemzar®, hereafter referred to as G8, to be misbranded within the meaning of 21 U.S.C. § 352(a), while the G8 was being held for sale after being shipped in interstate commerce, in that its labeling was false and misleading because the label represented a strength and potency of the Gemzar® in the intravenous drug mixture that

defendants knew did not reflect the actual strength and potency of the drug.

All in violation of 21 U.S.C. §§ 331(k) and 333(a)(2).

COUNT THIRTEEN

(Adulteration of a Drug)

On or about the 7th day of August, 2001, in Kansas City, Jackson County, within the Western District of Missouri, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, with the intent to defraud and mislead, caused a quantity of the prescription drug Taxol®, hereafter referred to as T3, to be adulterated while T3 was being held for sale after being shipped in interstate commerce; specifically, the defendants caused T3 to be adulterated pursuant to 21 U.S.C. § 351(c), in that the defendants purported and represented that the strength of the drug, and its purity and quality, were greater than they in fact were, and defendants caused T3 to be adulterated pursuant to 21 U.S.C. § 351(d), in that defendants mixed a substance with T3 so as to reduce T3's quality and strength, and in that defendants substituted a substance wholly or in part for T3.

All in violation of 21 U.S.C. §§ 331(k) and 333(a)(2).

COUNT FOURTEEN

(Misbranding of a Drug)

On or about the 7th day of August, 2001, in Kansas City, Jackson County, within the Western District of Missouri, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, with the intent to defraud and mislead, caused a quantity of the prescription drug Taxol®, hereafter referred to as T3, to be misbranded within the meaning of 21 U.S.C. § 352(a), while the T3 was being held for sale after being shipped in interstate commerce, in that its labeling was false and misleading because the label represented a strength and potency of the Taxol® in the intravenous drug mixture that defendants knew did not reflect the actual strength and potency of the drug.

All in violation of 21 U.S.C. §§ 331(k) and 333(a)(2).

COUNT FIFTEEN

(Adulteration of a Drug)

On or about the 13th day of August, 2001, in Kansas City, Jackson County, within the Western District of Missouri, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, with the intent to defraud and mislead, caused a quantity of the prescription drug Gemzar®, hereafter referred to as G9, to be adulterated while G9 was being

held for sale after being shipped in interstate commerce; specifically, the defendants caused G9 to be adulterated pursuant to 21 U.S.C. § 351(c), in that the defendants purported and represented that the strength of the drug, and its purity and quality, were greater than they in fact were, and defendants caused G9 to be adulterated pursuant to 21 U.S.C. § 351(d), in that defendants mixed a substance with G9 so as to reduce G9's quality and strength, and in that defendants substituted a substance wholly or in part for G9.

All in violation of 21 U.S.C. §§ 331(k) and 333(a)(2).

COUNT SIXTEEN

(Misbranding of a Drug)

On or about the 13th day of August, 2001, in Kansas City, Jackson County, within the Western District of Missouri, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, with the intent to defraud and mislead, caused a quantity of the prescription drug Gemzar®, hereafter referred to as G9, to be misbranded within the meaning of 21 U.S.C. § 352(a), while the G9 was being held for sale after being shipped in interstate commerce, in that its labeling was false and misleading because the label represented a strength and potency of the Gemzar® in the intravenous drug mixture that

defendants knew did not reflect the actual strength and potency of the drug.

All in violation of 21 U.S.C. §§ 331(k) and 333(a)(2).

COUNT SEVENTEEN

(Adulteration of a Drug)

On or about the 13th day of August, 2001, in Kansas City, Jackson County, within the Western District of Missouri, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, with the intent to defraud and mislead, caused a quantity of the prescription drug Gemzar®, hereafter referred to as G10, to be adulterated while G10 was being held for sale after being shipped in interstate commerce; specifically, the defendants caused G10 to be adulterated pursuant to 21 U.S.C. § 351(c), in that the defendants purported and represented that the strength of the drug, and its purity and quality, were greater than they in fact were, and defendants caused G10 to be adulterated pursuant to 21 U.S.C. § 351(d), in that defendants mixed a substance with G10 so as to reduce G10's quality and strength, and in that defendants substituted a substance wholly or in part for G10.

All in violation of 21 U.S.C. §§ 331(k) and 333(a)(2).

COUNT EIGHTEEN

(Misbranding of a Drug)

On or about the 13th day of August, 2001, in Kansas City, Jackson County, within the Western District of Missouri, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, with the intent to defraud and mislead, caused a quantity of the prescription drug Gemzar®, hereafter referred to as G10, to be misbranded within the meaning of 21 U.S.C. § 352(a), while the G10 was being held for sale after being shipped in interstate commerce, in that its labeling was false and misleading because the label represented a strength and potency of the Gemzar® in the intravenous drug mixture that defendants knew did not reflect the actual strength and potency of the drug.

All in violation of 21 U.S.C. §§ 331(k) and 333(a)(2).

COUNT NINETEEN

(Adulteration of a Drug)

On or about the 13th day of August, 2001, in Kansas City, Jackson County, within the Western District of Missouri, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, with the intent to defraud and mislead, caused a quantity of the prescription drug Taxol®, hereafter referred to as T4, to be adulterated while T4 was being

held for sale after being shipped in interstate commerce; specifically, the defendants caused T4 to be adulterated pursuant to 21 U.S.C. § 351(c), in that the defendants purported and represented that the strength of the drug, and its purity and quality, were greater than they in fact were, and defendants caused T4 to be adulterated pursuant to 21 U.S.C. § 351(d), in that defendants mixed a substance with T4 so as to reduce T4's quality and strength, and in that defendants substituted a substance wholly or in part for T4.

All in violation of 21 U.S.C. §§ 331(k) and 333(a)(2).

COUNT TWENTY

(Misbranding of a Drug)

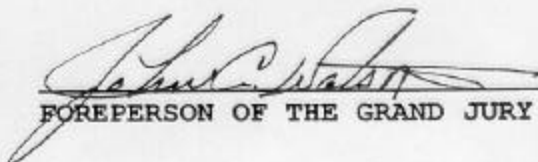
On or about the 13th day of August, 2001, in Kansas City, Jackson County, within the Western District of Missouri, the defendants, Robert Ray Courtney and Courtney Pharmacy, Inc., d/b/a Research Medical Tower Pharmacy, with the intent to defraud and mislead, caused a quantity of the prescription drug Taxol®, hereafter referred to as T4, to be misbranded within the meaning of 21 U.S.C. § 352(a), while the T4 was being held for sale after being shipped in interstate commerce, in that its labeling was false and misleading because the label represented a strength and potency of the Taxol® in the intravenous drug mixture that

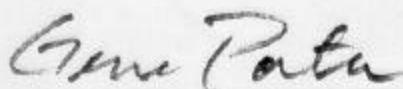
defendants knew did not reflect the actual strength and potency of the drug.

All in violation of 21 U.S.C. §§ 331(k) and 333(a)(2).

Dated this 23rd day of August, 2001.

A TRUE BILL:


FOREPERSON OF THE GRAND JURY



Phillip Eugene Porter
Assistant United States Attorney