

# JEFFREY A. LOVITKY

ATTORNEY AT LAW  
1776 K STREET, N.W., SUITE 800  
WASHINGTON, D.C. 20006

MEMBER DISTRICT OF COLUMBIA  
FLORIDA AND CONNECTICUT BARS

BOARD CERTIFIED IN HEALTH LAW, FLORIDA BAR  
BOARD OF LEGAL SPECIALIZATION AND EDUCATION

TEL: (202) 429-3393  
FACSIMILE (202) 318-4013  
E-MAIL: [lovitky@aol.com](mailto:lovitky@aol.com)  
WEB: [www.lovitky.com](http://www.lovitky.com)

## CURRICULUM VITAE

### PROFESSIONAL EXPERIENCE

Law Office of Jeffrey A. Lovitky (since 1989)

Formerly, Epstein Becker & Green, P.C. (1988-1989)  
U.S. Department of Justice (1984-1988)  
U.S. Army Judge Advocate General's Corps (1981-1983)

Admitted to Bars of Michigan (1980), Connecticut (1982), Florida (1983),  
District of Columbia (1987)

Board Certified Health Lawyer, Florida Bar Board of Legal Specialization and  
Education, effective 2005-2010.

LL.M. Degree in Government Procurement Law, George Washington University  
National Law Center (1988)

Professional emphasis – Twenty-five years of focused professional experience in virtually all aspects of U.S. government procurement law. Representation before the Boards of Contract Appeals, and the United States Court of Federal Claims, in connection with federal contract disputes litigation. Representation before the U.S. Government Accountability Office, and the United States Court of Federal Claims in connection with bid protests. Expertise in cost reimbursement contracting, cost principles, and DCAA audits. Advice and representation in connection with Medicare reimbursement disputes, including representation before the Provider Reimbursement Review Board and federal district courts. Specific emphasis on Medicare reimbursement for outpatient maintenance dialysis services and disproportionate share (“DSH”) payments. Counseling on healthcare business arrangements, with particular emphasis on avoidance of federal anti-kickback prohibitions. Successfully represented the American Council of the Blind in landmark litigation to require that U.S. currency be made accessible to blind and other visually impaired persons.

“AV” Rated by Martindale-Hubbell Legal Directory

**EDUCATION**

George Washington University National Law Center, LL.M. (1988)  
Judge Advocate General's School, U.S. Army, Charlottesville, Virginia  
Thomas M. Cooley Law School, J.D., Lansing, Michigan (1980)  
University of Michigan, B.A., Ann Arbor, Michigan (1976)

**REPRESENTATIVE CASES**

**United States Courts Of Appeals**

Am. Council of the Blind v. Paulson, 525 F.3d 1256 (D.C. Cir 2008)

St. Joseph Hosp. v. Leavitt, 280 Fed. Appx. 587, Case No. 07-55058 (9<sup>th</sup> Cir. 2008)

Chippewa Dialysis Servs. v. Leavitt, 511 F.3d 172 (D.C. Cir. 2007)

**United States Federal District Court**

Loma Linda University Kidney Center v. Leavitt, 06cv1926, 06cv1927 (TFH), Case pending at the United States District Court for the District of Columbia

Gundersen Lutheran Medical Center v. Leavitt, 06cv 2195 (TFH), Case pending at the United States District Court for the District of Columbia

Am. Council of the Blind v. Paulson, 2008 U.S. Dist. LEXIS 77601 (D.D.C. 2008)

Alpena Dialysis Servs. v. Leavitt, 2006 U.S. Dist. LEXIS 83059 (D.D.C. 2006)

St. Joseph Hospital v. Leavitt, Case No. 06CV1310, United States District Court for the Central District of California, Dec. 6. 2006

Am. Council of the Blind v. Paulson, 463 F. Supp. 2d 51 (D.D.C. 2006)

Rush Presbyterian-St. Luke's Med. Ctr. v. Thompson, 362 F. Supp. 2d 25 (D.D.C. 2005)

**REPRESENTATIVE CASES (CON'T)**

Am. Council of the Blind v. Snow, 311 F. Supp. 2d 86 (D.D.C. 2004)

**United States Court Of Federal Claims**

NVT Techs., Inc. v. United States, 73 Fed. Cl. 459 (2006)

Anderson Columbia Env'tl. Inc. v. United States, 43 Fed. Cl. 693 (1999)

Anderson Columbia Env'tl. Inc. v. United States, 42 Fed. Cl. 880 (1999)

TS Infosystems v. United States, 36 Fed. Cl. 570 (1996)

**District Of Columbia Court Of Appeals**

Gage v. District of Columbia Bd. of Zoning Adjustment, 738 A.2d 1219 (1999)

**United States Bankruptcy Court**

In re TS Infosystems, Inc., 1990 Bankr. LEXIS 1432, Case No. 89-4-0837-PM Chapter 11, July 3, 1990

**United States Boards Of Contract Appeals**

NVT Technologies, Inc. 2005-1 B.C.A. (CCH) P32, 969, EBCA No. C-0401372, April 20, 2005

NVT Technologies, Inc. v. General Services Administration, Respondent. 2004-2 B.C.A. (CCH) P32, 655, GSBCA No. 16175, May 27, 2004

Carousel Development, Inc. ,Armed Services Board of Contract Appeals, 2001-1 B.C.A. (CCH) P31,262, ASBCA No. 50719, January 23, 2001

I-NET, Inc., v. Department of the Army GSBCA LEXIS 67, GSBCA No. 13128-P, March 2, 1995 (co-counsel)

Appeal Of Superior Surgical Mfg. Co., Inc., 93-2 B.C.A. (CCH) P25, 826, Docket No. VABCA-3748, February 19, 1993

TS Infosystems, Inc., v. Department of Commerce, 1992 GSBCA LEXIS 473, GSBCA No. 10794-COM-REIN, November 9, 1992

Appeal of TS Infosystems, Inc., 91-2 B.C.A. (CCH) P23, 794, GSBCA No. 10794-COM, February 21, 1991

In re TS Infosystems, Inc., 36 Cont. Cas. Fed. (CCH) P75, 911. 1990 Bankr. LEXIS 1432 (1990)

**REPRESENTATIVE CASES (CON'T)**

Protest of Rocky Mountain Trading Company, 1987 GSBICA LEXIS 799, GSBICA No. 8927-P, April 6, 1987

Appeal of R.P. Sita, Inc. 85-1 B.C.A. (CCH) P17, 928; DOCKET NO. 1593, March 6, 1985

**United States Government Accountability Office**

Horizon Industries, 2008 U.S. Comp. Gen. LEXIS 11, B-310542 (Jan. 7, 2008)

NVT Technologies, Inc. 2006 U.S. Comp. Gen. LEXIS 30, B-297524, B-297524.2 (Feb 2, 2006)

Universal Marine & Industrial Services, Inc., 2003 U.S. Comp. Gen. LEXIS 248, B-292964, December 23, 2003

NVT Technologies, Inc, 2003 U.S. Comp. Gen. LEXIS 174, B-292302.3, October 20, 2003

Satellite Services, Inc., 2001 U.S. Comp. Gen. LEXIS 13, B-286508; B-286508.2, January 18, 2001

Rockville Mailing Service, Inc., 1997 U.S. Comp. Gen. LEXIS 129, B-275073; B-275073.2, January 23, 1997

Rockville Mailing Service, Inc., 1996 U.S. Comp. Gen. LEXIS 200, B-270161.2, April 10, 1996

DCT, Inc., 1995 U.S. Comp. Gen. LEXIS 753, B-261894.2, November 22, 1995

Newport News Shipbuilding and Dry Dock Company; Combustion Engineering, Inc.; Sierra Nuclear Corporation; Case No's B-261244.2, B-261244.3, B-261244.4, B-261244.5, September 11, 1995 (co-counsel)

Ameriko Maintenance Company, 1993 U.S. Comp. Gen. LEXIS 791, B-253274; B-253274.2, August 25, 1993

Anderson Columbia Co., Inc., 1993 U.S. Comp. Gen. LEXIS 96, B-249475.3, February 5, 1993

**REPRESENTATIVE CASES (CON'T)**

Anderson Columbia Co., Inc., 1992 U.S. Comp. Gen. LEXIS 1300, B-250530, November 24, 1992

**United States Provider Reimbursement Review Board**

Dartmouth Medical Center v. Anthem Health Plans of New Hampshire, Case No. 02-0632, U.S. Department of Health & Human Services Provider Reimbursement Review Board, Decision No., 2006-D26, June 2, 2006

UMass Memorial Medical Center v. Blue Cross Blue Shield Association, Case No. 02-1213, U.S. Department of Health & Human Services Provider Reimbursement Review Board, June 14, 2005

Alpena Dialysis Services v. Blue Cross Blue Shield Association, Case No 01-0742, U.S. Department of Health & Human Services Provider Reimbursement Review Board Decision No., 2004-D6, Dec. 22, 2003

Howard Young Medical Center v. Blue Cross Blue Shield United of Wisconsin, Case No. 95-0113

**PUBLICATIONS**

“Recent Cases Interpreting the Medicare Anti-Kickback Act,” *Health Care Law Monthly*, October 2006.

“The Privacy of Health Information: Consents and Authorizations under HIPAA,” *Florida Bar Journal*, May 2002

“OIG Model Compliance Programs,” *Healthcare Financial Management*, March 2002

“The Medicare Anti-Kickback Statute: Understanding the Intent Requirement,” *Health Care Law Monthly*, May 2001

“The National Practitioner Data Bank: Coping with the Uncertainties,” *Journal of Health Law*, Spring 2000

“White-Collar Crime: Most false-claims actions arise in the context of fraud against various federal health-care programs,” *California Law Business*, May 24, 1999

**PUBLICATIONS (CON'T)**

Designing Compliance Programs That Foster Ethical Behavior,” *Healthcare Financial Management*, March 1999

“Qui Tam Litigation: A Practical Primer,” *Journal of the Association of Trial Lawyers of America*, January 1999

“Health Care Fraud: A Growing Problem,” *Nursing Management*, November 1997

“Medicare/Medicaid Fraud: A Growing Area Of Concern For Health Care Providers,” *Michigan Bar Journal*, March, 1997

“Medicare Fraud & Podiatrists,” *Podiatry Management Magazine*, November, 1996

“Shutting Down the Federal Government,” *Legal Times of Washington*, July 8, 1996

“Dispute Resolution Procedures Under Federal Contracts,” *The Florida Bar Journal*, Vol. LXIX, No. 11, December, 1995

“Procurement Integrity Returns: An Analysis of the Impact of Section 27 of the OFPP Act on the Federal Procurement Community,” *Washington Legal Foundation, Critical Legal Issues, Working Paper Series No. 47*, September, 1991

“Key Problems in Attaining 8(a) Certification,” *Minority Business Journal*, Vol. 5, No. 6, September-October, 1990

“New Lobbying Requirements Imposed on Federal Grantees,” *Nonprofit World*, Vol. 8, No. 5, September-October, 1990

“New Anti-Lobbying Law Will Have Major Impact,” *The Los Angeles Daily Journal*, Vol. 103, No. 121, June 18, 1990

“Congress Tightens Noose on Lobbying by Federal Grantees,” *The Taft Nonprofit Executive*, Volume IX, Number 9, May 1990

“New Realities in Pricing Government Contracts,” *Federal Acquisition Report*, May, 1990

Unisys v. United States: Federal Circuit Ushers New Uncertainties into Defective Pricing Cases,” *Public Contract Newsletter*, Volume 25, Number 3, Spring, 1990

**PUBLICATIONS (CON'T)**

“Procurement Integrity Law Deserved Suspension,” *Legal Times of Washington*, March 19, 1990

“Applying the Exemptions to Cost or Pricing Data,” *Volume 18, Number 1, Public Contract Law Journal*, November, 1989

“Current Issues in Defective Pricing Cases,” *Public Contract Newsletter*, Volume 24, Number 4, Summer 1989

“A Review of the Byrd Amendment: What are its Implications for the Grantee Community?” *Grants Magazine*, Vol. 12, No. 2, June 1989

“Understanding Causation and Determining the Price Adjustment in Defective Pricing Cases,” *17 Public Contract Law Journal* 407 (1988)

“The Defense of Fraud Proceedings Cost Principle, Government Contract Costs,” *Pricing & Accounting Report*, November 1988

“Fact Versus Judgment in Defining Cost or Pricing Data,” *Contract Management Magazine*, September 1988

“Certification of Government Contract Claims Under the Contract Disputes Act,” *16 Public Contract Law Journal* 551 (1987)

“Cost or Pricing Data Defined: An Analysis of Disclosure Requirements Pursuant to Truth-in-Negotiations,” *National Contract Management Journal*, Winter, 1987

“Understanding the Submission Requirement for Cost or Pricing Data,” *National Contract Management Journal*, Summer, 1987

“Privatization and OMB A-76: The Case For Contracting-Out,” *Contract Management Magazine*, November, 1986

“Problems of Government Contracting for Consulting Services,” *14 Public Contract Law Journal* 332 (1984)

“An Analysis of General Accounting Office Decisions Pertaining to Unbalanced Bidding,” *14 Public Contract Law Journal* 178 (1983)

“Torncello & Soledad Enterprises, Inc., v. United States: A Return to the ommon Law,” *The Army Lawyer*, January, 1983