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# Long Island **Business**NEWS

## LONG ISLAND LAWYER

### **Patriot Act Sparks Controversy, Consulting Opps** **by Claude Solnik**

**MELVILLE** - It's hard for law firms to decide whether the Patriot Act is a blessing or a curse. While it's generating heated discussion among attorneys, it's also bringing them extra business.

Signed by President George W. Bush on Oct. 26, 2001 in response to 9/11, the act includes provisions that limit the rights of suspected terrorists and require financial institutions to monitor funds and check customers' identities more closely.

"The legitimate quest for security in the post-9/11 world does not justify wholesale abrogation of fundamental civil rights and liberties that were won at great cost and sacrifice and which have endured for more than 200 years," said Scott Karson, a partner at Lamb and Barnosky in Melville and president of the Suffolk County Bar Association, stressing that his comments represent his own opinions and not necessarily those of the bar. "I'm particularly concerned about keeping persons in custody indefinitely, without charges, without access to the courts and without the assistance of legal counsel."

Alex Bateman, co-chair of the white-collar crime and investigations practice group at Ruskin Moscou Faltischek, also expressed concerns about the far-reaching nature of the Patriot Act.

It was illegal to provide material support to terrorist groups before the legislation was passed, but the Patriot Act made it illegal to provide "expert advice or assistance" to groups on terrorist watch lists, a prohibition that could enmesh innocent people, Bateman said.

"When you start expanding the language like that, you worry whether it will be expanded to a law firm practicing internationally that may be involved in lobbying activities," he said.

In February, a district court judge in California ruled that making it illegal to offer ad-vice or assistance to groups the State Department deems as foreign terrorist organizations is unconstitutional. That ruling, based on the argument that the act's language is too vague, is being appealed by the federal government.

The Patriot Act has led to other things too - for one, "sneak and peek" warrants whereby law enforcement officials with court authorization can enter a home, look around, take pictures, investigate and leave, all without notifying the inhabitants. For another, regulations regarding money laundering have increased banks' role in surveillance, sending them to law firms for advice on how to comply.

Federal regulators in May fined Washington, D.C.-based Riggs Bank \$25 million for violating money laundering laws related to the Patriot Act, saying the bank failed to report when tens of millions of dollars moved in and out of the accounts of foreign embassies, including Saudi Arabia and Equatorial Guinea.

And while financial institutions, including banks, casinos, pawn brokers and check cashers, must now have in place written procedures to verify the identity of customers, the guidelines for doing so are still in the process of being developed and modified.

***"[The Patriot Act] doesn't specify the actions to be taken and leaves a lot of that to interpretation by individual institutions," said Robert Tils, a partner at Moritt Hock Hamroff & Horowitz, a law firm based in Garden City. "Different [businesses] interpret it differently."***

***While bigger institutions have long had systems and personnel in place to handle this, smaller banks face similar requirements. They must, for instance, have on staff someone who acts as a compliance officer.***

***But Treasury Department officials note that smaller banks know most of their customers, which makes verification less burdensome, Tils said.***

***"It's an ongoing process. It's not creating a new practice. Much of it falls under the umbrella of banking regulation," said Tils, adding that Patriot Act compliance could eventually become its own area of the law. "It may ultimately become its own practice area, so to speak. That's yet to be seen."***