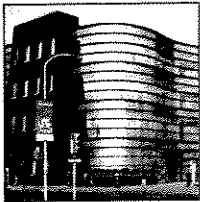


# THE PHILADELPHIA LAWYER

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## Drexel's Great Leap

BY DANIEL A. CIRUCCI



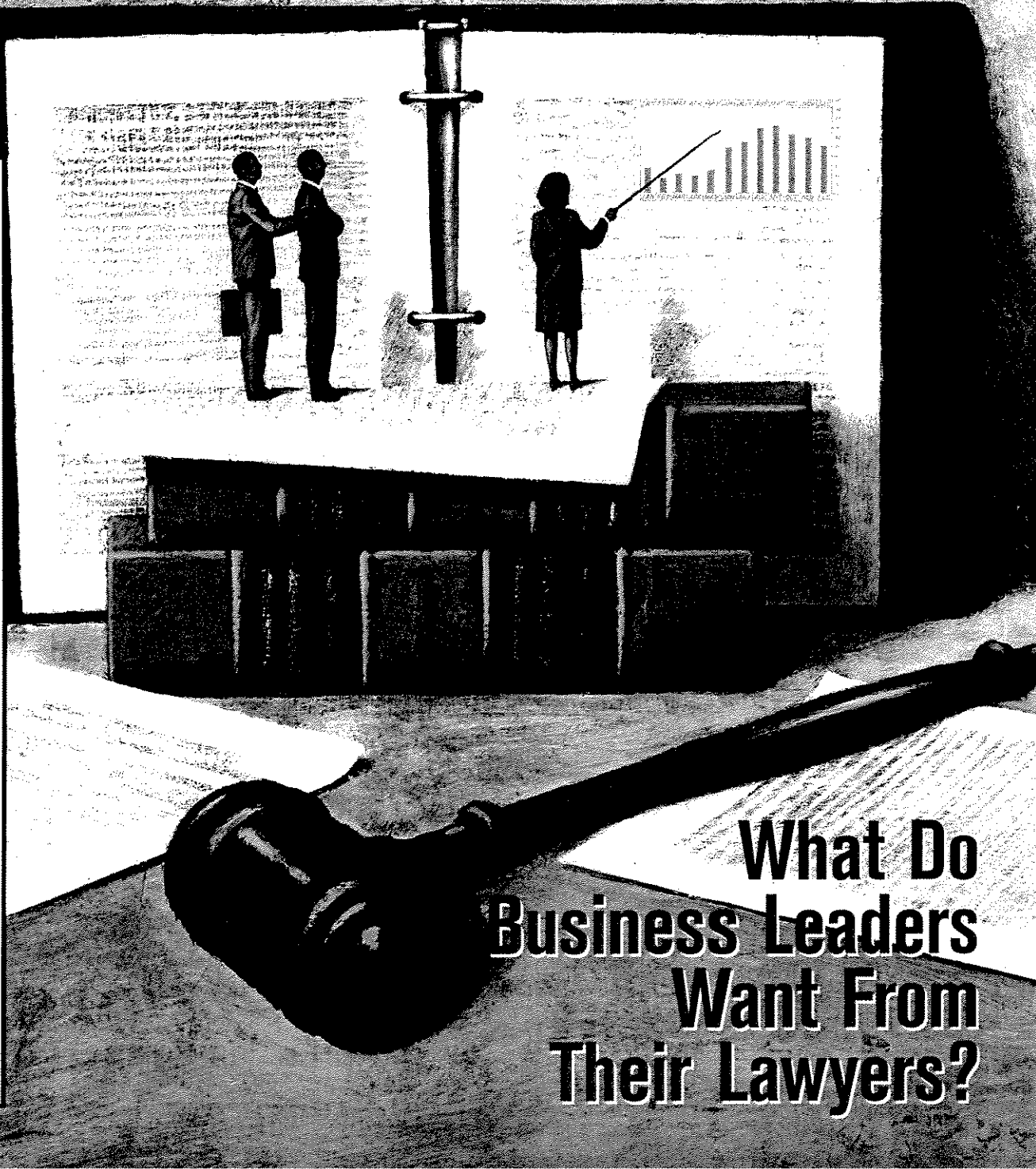
## The Vietnam Babylift: A Personal Story

BY JUDGE DOLORES K. SLOVITER



## 10 Questions for Romulo L. Diaz Jr.

INTERVIEW BY  
NIKI INGRAM



# What Do Business Leaders Want From Their Lawyers?

# An End to Redundancy?

## CLS and PLA Anxiously Await Federal Court Ruling on Working Together

About ten years ago, Congress passed amendments to the Legal Services Corporation funding act that imposed extensive restrictions on the kinds of services Community Legal Services (CLS) here in Philadelphia, and its counterparts nationwide, could perform. CLS faced a Hobson's choice: either forego millions of dollars in federal funding used to help destitute and disadvantaged clients, or accept the funds and give up a wide variety of important legal work.

In response to the 1996 Congressional directive, Legal Services Corporation imposed a series of restrictions not only on the publicly funded work, but also on the privately funded activities of legal services organizations that receive funding from Legal Services Corporation, including:

- a ban on seeking or receiving court-ordered attorneys' fee awards;
- a ban on participating in class actions;
- a ban on representing certain categories of aliens, including many lawfully admitted aliens;
- a ban on representing prisoners in family law or other civil matters;
- a ban on notifying prospective clients of their legal rights and then offering to represent them; and
- a ban on communicating with policy makers or legislators on a client's behalf, except in narrow situations.

Rather than accept these sharp limitations, Community Legal Services decided to give up more than two million dollars in federal funds and let go about thirty staff members whose salaries could no longer be paid so that it could continue to represent low-income and disadvantaged persons in desperate need of legal help. Through the leadership of many concerned lawyers and the Philadelphia Bar Association, an independent organization known as Philadelphia Legal Assistance (PLA) was formed to accept the federal funding and live within the federal restrictions.



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But the net result has been a loss for legal services—and for Philadelphia's poorest citizens. Since 1996, Community Legal Services and Philadelphia Legal Assistance have each had to separately incur and pay the expense of many operational and support services—such as computer systems, accounting departments, office space and administrative staff—that previously had been performed together. Legal Services Corporation has mandated strict separation, with physically separate legal programs in physically separate facilities and operated by separate staff and management. Duplication, redundancy and inefficiency have resulted.

Perhaps most galling to many lawyers around the country has been the impact of these LSC “program integrity” rules on the ability of agencies to use privately donated funds and state and local government funds to provide desperately needed legal services while still receiving Legal Services Corporation support for other legal work.

Many lawyers in Philadelphia and across the country have argued that the LSC rules, in the name of ensuring “objective integrity and independence” of agencies using LSC funds, have gone too far—unconstitutionally too far at that. These lawyers have argued that the Legal Services Corporation strictures have imposed a substantial and undue burden on the First Amendment activities of many agencies and their lawyers in speaking out through lawsuits and otherwise on behalf of the most vulnerable members of our society.

Recently, in *Velazquez v. LSC*, 349 F. Supp. 2d 566 (E.D.N.Y. 2004), modified, 356 F. Supp. 2d 267 (E.D.N.Y. 2005), a federal judge issued a preliminary injunction in favor of three New York legal services organizations, striking down substantial parts of the rules requiring separate staffs, offices and equipment. The court determined that in imposing rules that limit First Amendment expression as a condition for accepting federal subsidies, the government, through Legal Services Corporation, has not properly balanced its right to regulate use of LSC funds with its obligation to ensure that adequate alternative channels for First Amendment-protected activities are available to those agencies

required to live with the federal restrictions.

Put simply, the court found that Legal Services Corporation could maintain control over the expenditure of federal funds in a much less restrictive way, and at the same time respect the substantial First Amendment rights of legal services agencies to advocate for clients. The federal judge then approved a model that permits legal services programs to share employees, equipment and back office space with the non-LSC-funded part of their programs, as long as the two programs adhere to strict timekeeping and accounting protocols, use extensive signage and disclaimers to avoid any confusion, and maintain separate public areas.

Legal Services Corporation has now appealed this decision to the U.S. Court of Appeals for the Second Circuit. On May 26, 2005, the Board of Governors of the Philadelphia Bar Association adopted a resolution drafted by its Delivery of Legal Services Committee authorizing the Association to join with leading bar associations around the country in an amicus brief, calling upon the Second Circuit to affirm the district court's ruling. In early June, the Philadelphia Bar Foundation, which provides vital funding to Community Legal Services and other legal services and public interest law organizations in the region, approved the Foundation's participation as an amicus as well, and the brief was filed in July.

Legal services providers are anxiously awaiting the ruling of the Second Circuit Court of Appeals. Ultimately, if the circuit court sustains the district court decision, and its rationale is applied in Philadelphia, it will mean that Community Legal Services and Philadelphia Legal Assistance can begin working together and sharing operations in new ways. That, in turn, would allow the two agencies to devote more of their limited funds to providing direct advocacy for those with the greatest legal needs, and less of those funds to administrative overhead. Low-income and disadvantaged citizens of the Philadelphia region in need of access to justice would be the biggest winners. ■

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