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WIDOW OF AMERICAN CITIZEN CHALLENGES UNLAWFUL GREEN CARD POLICY

(New York, NY – November 20, 2008) - The New York Legal Assistance Group (NYLAG) today filed a lawsuit challenging the U.S. Citizen and Immigration Service's (USCIS) policy of automatically denying green card applications submitted by husbands and wives of U.S. citizens solely because their citizen spouse died before the government processed the applications.

NYLAG filed the lawsuit, *Gorovets v. Chertoff*, in the U.S. District Court for the Southern District of New York, on behalf of Irina Gorovets, the widow of Emil Gorovets, a world-renowned singer and composer. Mrs. Gorovets is facing deportation because her husband tragically died from kidney failure while the Gorovetses' immigration applications were awaiting agency approval.

Federal law allows the spouse of a U.S. citizen to become a lawful permanent resident and obtain a green card. However, if the citizen spouse dies before the couple has been married for two years and before USCIS processes the couple's immigration papers, USCIS refuses to treat the widow or widower as the spouse of a U.S. citizen and denies the green card application.

In Mrs. Gorovets's case, although her husband passed away prior to their second wedding anniversary, the couple had lived together for years before his death. Ms. Gorovets was devastated when USCIS ruled that her marriage "ceased to exist" upon her husband's death. "I will always be the widow of Emil Gorovets," she said.

USCIS's policy, often called the "widow's penalty," has resulted in more than 170 widows and widowers throughout the country fearing deportation. Numerous federal courts have found the policy unlawful, yet it remains in effect in New York.

Under USCIS's policy, whether a surviving spouse can obtain a green card can be purely a matter of chance. For widows and widowers whose citizen spouse dies before their second wedding anniversary, their eligibility for a green card solely depends on when USCIS makes decisions on their applications. If the citizen spouse dies after the application is processed, the surviving spouse gets a green card; but if the citizen spouse dies before the application is processed, the surviving spouse is denied a green card and placed in deportation proceedings.

Caryn Lederer, a staff attorney at NYLAG, said, "Mrs. Gorovets is the victim of an arbitrary and unjust policy. Whether widows and widowers like Mrs. Gorovets can stay in the United States should not depend on whether the government processes their properly-filed applications before or after the tragic death of their spouses."

About NYLAG:

Founded in 1990, the New York Legal Assistance Group (NYLAG) is a not-for-profit law office providing free civil legal services to low-income New Yorkers. A full service agency, NYLAG provides consultation, representation, and advocacy. Last year, NYLAG directly served more than 31,000 individuals and helped additional thousands through successful impact litigation and community legal education. For more information on NYLAG, please visit www.nylag.org.