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FOR IMMEDIATE RELEASE – 1/12/07

RE: Commonwealth v. Anthony Diordoro
Superior Court Child Pornography Case

**SUPERIOR COURT GRANTS DELCO DA'S REQUEST FOR REARGUMENT
IN CHILD PORNOGRAPHY CASE**

On January 10, 2007, the Superior Court of Pennsylvania withdrew its decision filed November 2, 2006, in Commonwealth of Pennsylvania v. Anthony Diordoro and granted the Application for Reargument filed by G. Michael Green, District Attorney of Delaware County, and Michelle P. Hutton, Assistant District Attorney – Appellate Division.

The November 2, 2006 decision of a three-judge panel of the Superior Court reversed Diordoro's 2005 Delaware County conviction. This decision is no longer precedent in Pennsylvania. Reargument of this case will be before the Superior Court of Pennsylvania *en banc*.

Diordoro was convicted following the execution of a search warrant in November 2003 by law enforcement investigators assigned to the Internet Crimes Against Children Task Force for Pennsylvania operating out of the Office of the District Attorney of Delaware County. Diordoro's computer was seized from his bedroom. The computer forensic examination determined that on numerous occasions, Mr. Diordoro knowingly searched for and viewed images of child pornography, but had not knowingly saved or downloaded any of those images to his computer hard drive.

The issue before the Superior Court turns on the interpretation of the words "possession or control". The Pennsylvania Crimes Code requires a person knowingly "possess or control" images of child pornography. The now withdrawn November 2, 2006 Superior Court Opinion decided that, in the absence of Mr. Diordoro saving or downloading any of the child pornography to his computer hard drive, he did not possess child pornography even though he admittedly searched for and viewed child pornography on his computer screen.

At the time District Attorney Mike Green filed a Request for Reargument, Green said, "When the operator of the computer physically manipulates a mouse, a keyboard, clicks on and off of icons such that an image appears on the screen in full view, that is in fact control within the meaning of the statute." A date for this *en banc* argument has not yet been assigned. The next Superior Court *en banc* hearings are scheduled for September 2007.

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