

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THE PRUDENTIAL INSURANCE CO.	:	CIVIL ACTION
OF AMERICA <u>et al.</u>	:	
	:	
v.	:	
	:	
PHOENIX TECHNOLOGIES, INC.	:	NO. 97-4845

MEMORANDUM ORDER

AND NOW, TO WIT, this 5th day of December, 1997, upon consideration of defendant Phoenix Technologies, Inc.'s ("Phoenix") motion to dismiss the Complaint and The Prudential Insurance Company of America, Prudential Health Care Plan, Inc. and Prudential Health Care Plans of Georgia, New York, California and Connecticut's ("Prudential") response thereto, the court will deny the motion as moot.

On September 29, 1997, Phoenix filed a motion to dismiss the Complaint in this case. On October 14, 1997, Prudential filed an amended Complaint. On October 21, 1997, Phoenix filed a motion to dismiss the amended Complaint.

Therefore, IT IS ORDERED that Phoenix's motion to dismiss the initial Complaint is DENIED as MOOT.

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LOUIS C. BECHTLE, J.