

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>C.G., et al.,</b>	:	
<b>Plaintiffs</b>	:	<b>Civil Action No. 1:06-cv-1523</b>
	:	
<b>v.</b>	:	<b>(Chief Judge Kane)</b>
	:	
<b>THE COMMONWEALTH OF</b>	:	
<b>PENNSYLVANIA DEPARTMENT OF</b>	:	
<b>EDUCATION, and SECRETARY</b>	:	
<b>GERALD ZAHORCHAK,</b>	:	
<b>Defendants</b>	:	

**MEMORANDUM ORDER**

**THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:**

On September 9, 2009, Plaintiffs filed a motion for summary judgment which included multiple exhibits. Among them was Exhibit Z, an affidavit written by L.C., the mother of named Plaintiff K.C. (Doc. No. 109-34 at 14.) Though the document appears to be signed by L.C., the signature is redacted and the document is written entirely in Spanish. (Id.) On November 12, 2009, as an attachment to their brief in opposition to Defendants' motion for summary judgment, Plaintiffs filed Exhibit Z-1, an unsigned translation of L.C.'s declaration. (Doc. No. 149-4.) On December 18, 2009, Defendants moved to strike paragraphs three and six of the affidavit as inadmissible hearsay and to strike the entirety of Exhibit Z-1 as an unauthenticated translation. (Doc. No. 155.) On January 4, 2010, Plaintiffs filed "Amended Document Z-1," an authenticated translation of Exhibit Z. (Doc. No. 163, 163-2.) Plaintiffs did not, however, file a brief in opposition to Defendants' motion to strike paragraphs three and six of Exhibits Z and Z-1. On January 22, 2010, Defendants filed a reply brief to their motion to strike, accepting Plaintiffs' authenticated translation but reiterating their desire to strike paragraphs three and six therein as hearsay.

The Local Rules provide that “any party opposing any motion shall file a brief in opposition . . . . Any party who fails to comply with this rule shall be deemed not to oppose such motion.” M.D. Pa. L.R. 7.6. Moreover, the Court agrees with Defendants that paragraphs three and six of Exhibit Z and Amended Exhibit Z-1 refer to statements made by unidentified declarants being proffered for the truth of the matters asserted, and therefore are hearsay statements that should not be considered at summary judgment. See Blackburn v. United Parcel Serv., Inc., 179 F.3d 81, 95 (3d Cir. 1999) (hearsay statements not admissible at trial should not be considered on a summary judgment motion). Therefore, the paragraphs will be stricken.

**ACCORDINGLY**, this 2<sup>nd</sup> day of July 2010, upon consideration of Defendants’ motion to strike paragraphs three and six of Plaintiffs’ Exhibit Z and Amended Exhibit Z-1 (Doc. No. 155), **IT IS HEREBY ORDERED THAT** the motion is **GRANTED**. Paragraphs three and six of Plaintiffs’ Exhibit Z (Doc. No. 109-34 at 14) and Plaintiffs’ Amendment Exhibit Z-1 (Doc. No. 163) are **HEREBY STRICKEN**.

S/ Yvette Kane  
Yvette Kane, Chief Judge  
United States District Court  
Middle District of Pennsylvania