## UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

	)	
ELENA COLES,	)	
	)	
Plaintiff,	)	
	)	
V.	)	Civil Action No. 06-223 (RMC)
	)	
FRANCIS J. HARVEY,	)	
SECRETARY, DEPT. OF THE ARMY,	)	
	)	
Defendant.	)	
	_)	

## **ORDER**

For the reasons stated in the Memorandum Opinion filed separately and contemporaneously herewith, it is hereby

ORDERED that Defendant's Motion to Dismiss or, in the Alternative, for Summary Judgment [Dkt. # 7] is GRANTED IN PART AND DENIED IN PART. The motion to dismiss under Rule 12(b)(1) for lack of subject matter jurisdiction is DENIED WITHOUT PREJUDICE; the motion to dismiss under Rule 12(b)(6) with respect to Plaintiff's claim based on alleged sexual harassment is GRANTED; and the motion to dismiss under Rule 12(b)(6) with respect to Plaintiff's claim based on alleged retaliation is DENIED. The Court declines to convert Defendant's motion into one for summary judgment under Fed. R. Civ. P. 56.

## SO ORDERED.

Date: January 11, 2007	/s/		
• .	Rosemary M. Collyer		
	United States District Judge		