

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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RACHELLE OVERBY,

Plaintiff,

v.

ROBERT GATES, SECRETARY,  
DEPARTMENT OF DEFENSE,

Defendant.

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) Civil Action No. 07-2038 (RBW)  
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**ORDER**

The parties appeared before the Court on July 15, 2010, for a hearing on the defendant's motion for summary judgment, which the plaintiff opposed.<sup>1</sup> Upon consideration of the parties' oral representations and their written filings, and for the reasons expressed orally by the Court from the bench at the conclusion of the motion hearing, it is hereby

**ORDERED** that Defendant's Motion for Summary Judgment is **DENIED**, given that material questions of fact exist as to whether the plaintiff's assigned responsibilities were essential functions of her job and whether the plaintiff was provided with reasonable accommodations throughout her employment. It is further

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<sup>1</sup> The Court considered the following submissions in deciding the motion: Memorandum of Points and Authorities in Support of Defendant's Motion for Summary Judgment; Defendant's Statement of Undisputed Material Facts; Plaintiff's Opposition to Summary Judgment; Plaintiff's Responses to Defendant's Statement of Material Facts; and Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Summary Judgment. The Court also considered the plaintiff's sur-reply, and in so doing granted the Plaintiff's Motion for Leave to File a Sur-reply in Opposition to Defendant's Motion for Summary Judgment, which the defendant opposed, see Defendant's Opposition to Plaintiff's Motion for Leave to File Sur-Reply; see also Plaintiff's Reply in Support of Motion for Leave to File Sur-reply in Opposition to Defendant's Motion for Summary Judgment.

**ORDERED** that given the plaintiff's oral representation that she is voluntarily dismissing her race-based theory of discrimination, any claim based on the theory of racial discrimination is hereby **DISMISSED**.<sup>2</sup> It is further

**ORDERED** that the parties shall appear before this Court for a pretrial conference<sup>3</sup> in the Court's chambers on the sixth floor of the William B. Bryant Annex to the E. Barrett Prettyman United States Courthouse, 333 Constitution Avenue, N.W., Washington, D.C. 20001.

**SO ORDERED** this 19th day of July, 2010.

\_\_\_\_\_/s/\_\_\_\_\_  
REGGIE B. WALTON  
United States District Judge

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<sup>2</sup> The two remaining claims in this action arise from allegations of intentional discrimination based on the plaintiff's disability of deafness and the defendant's failure to accommodate the plaintiff's disability of deafness.

<sup>3</sup> A separate Order addressing the pretrial conference procedures will be issued.