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5 **UNITED STATES DISTRICT COURT**
6 **NORTHERN DISTRICT OF CALIFORNIA**

7 SANDIE P. CHU,

8 Plaintiff,

9 vs.

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11 PATRICK DONAHOE, POSTMASTER GENERAL,
12 UNITED STATES POSTAL SERVICE,

13 Defendant.

Case No.: 12-CV-2660 YGR

**ORDER GRANTING MOTION TO DISMISS
WITHOUT LEAVE TO AMEND**

14 Plaintiff Sandie P. Chu (“Chu”) filed her Employment Discrimination Complaint on May 23,
15 2012, alleging employment discrimination based upon race or color; sex; and national origin.

16 Defendant Patrick Donahoe, Postmaster General, United States Postal Service (“Donahoe”) filed his
17 Motion to Dismiss on July 23, 2012 (Dkt No. 9), arguing that the Chu’s claim for employment
18 discrimination based upon sex must be dismissed pursuant to Rule 12(b)(1) of the Federal Rules of
19 Civil Procedure because Chu failed to exhaust her administrative remedies in the EEO process with
20 respect to any claim based upon sex.
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23 Having carefully considered the papers submitted, the Court hereby **GRANTS** the Motion to
24 Dismiss **only** to the extent that the claims in the complaint are alleged to be based upon sex
25 discrimination.¹ Chu, in her opposition, concedes that she erroneously checked the box on the form
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28 ¹ Pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-1(b), the Court finds this
motion appropriate for decision without oral argument. Accordingly, the Court **VACATES** the hearing set for
August 28, 2012.

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complaint and that she did not intend to bring a claim based upon sex or gender. No leave to amend is necessary. The allegation at page 2, line 12 of the Complaint is **STRICKEN**.

Donahoe is directed to file his answer to the remainder of the Complaint no later than **September 10, 2012**.

IT IS SO ORDERED.

Date: August 23, 2012



YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE