

[gender] stereotypes or preconceived notions about [women] can be held liable for intentional discrimination.” *Kelly v. Bank Midwest, N.A.*, 177 F. Supp. 2d 1190, 1204-05 (D. Kan. 2001); see also *Thomas v. Eastman Kodak Co.*, 183 F.3d 38, 58 (1<sup>st</sup> Cir. 1999) (decision is improperly based on race “regardless of whether the employer consciously intended to base the evaluations on race, or simply did so because of unthinking stereotypes or bias”). Federal civil rights laws’ prohibitions of sex discrimination were intended to remove artificial barriers based on sex. Because these statutes, including the Fair Housing Act, are by their nature remedial, rather than punitive, they reach such unconscious stereotyping, “as unwitting or ingrained bias is no less injurious or worthy of eradication than blatant or calculated discrimination” and pose an equivalent barrier to women’s advancement. *Hopkins v. Price Waterhouse*, 825 F.2d 458, 469 (1987), *aff’d in relevant part*, 490 U.S. 228. The fact that an individual may be unaware of the stereotypes underlying her own discriminatory motivation “neither alters the fact of the [discriminatory motivation’s] existence, nor excuses it.” *Id.*; see also *Lynn v. Regents of the Univ. of Cal.*, 656 F.2d 1337, 1343 n.5 (9<sup>th</sup> Cir. 1981) (“Other [beliefs] reflect a discriminatory attitude more subtly; the subtlety does not, however, make the impact less significant or less unlawful. It serves only to make the courts’ task of scrutinizing attitudes and motivation, in order to determine the true reason for [defendants’] decisions, more exacting.”). A defendant may well believe the stereotypes that he or she holds to be accurate reflections of reality, rather than recognizing them as gender discriminatory; this misperception, however, does not somehow function to remove the taint of discrimination from actions based on those stereotypes. See *Back*, 365 F.3d at 130.

Courts have established several principles that should guide analysis of cases of discrimination on the basis of stereotypes. First, in determining whether a defendant has