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As Justices Weigh Pregnancy Bias, a Claim Lands Close to Home

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SAN FRANCISCO — Two San Francisco employment attorneys are bringing a pregnancy discrimination suit against an East Bay lawyer who also happens to be the daughter of a California Supreme Court justice.

A California Supreme Court justice who is expected to rule in the next couple of months in [a major pregnancy discrimination case](#).

Awkward!

Ingrid Evans and Kelly Armstrong allege in a suit filed Tuesday in Alameda County Superior Court that Laura Baxter-Simons fired their client, Madalyn Garcia, from a Berkeley housekeeping position because of a dispute over Garcia's pregnancy disability leave. Baxter-Simons is the daughter of Supreme Court Justice Marvin Baxter.

They attorneys allege that Garcia's employment was going fine until April 2012, when Garcia told Baxter-Simons she was pregnant and would need a 12-week leave of absence later in the fall. Baxter-Simons felt that was too much, and the relationship turned negative, with Baxter-Simons' husband, hedge fund principal Nathaniel Simons, having to intervene in a dispute over Garcia's wish to revise her weekly schedule, the attorneys allege.

Elan Household, the limited liability corporation formed by Simons that employs the family's domestic help, then terminated Garcia in August, the suit alleges. "The relationship changed 100 percent once she learned that she was pregnant," said Evans, of The Evans Law Firm, on Wednesday.

Baxter-Simons is general counsel and chief compliance officer for two investment management companies. Margaret Murray, an attorney representing Baxter-Simons on the matter, did not respond to a voice message Wednesday afternoon.

The suit comes a month after Justice Baxter and his colleagues heard argument in *Harris v. City of Santa Monica*, a closely watched case that stems from a bus driver's pregnancy discrimination claim. The driver in that case said her managers fired her because of her pregnancy, but the city says it had legitimate reasons for the termination. The case is expected to decide the viability of the so-called mixed-motive defense under California's Fair Employment and Housing Act — a defense that could hypothetically be in play if the Garcia case proceeds.

Recusal in California turns on whether a person aware of the facts might "reasonably entertain a doubt that the judge would be able to be impartial," among other things. Professor Stephen Gillers, who teaches legal ethics at New York University School of Law, said judicial rulings often can have some impact on a judge's relatives, so the issue is one of degree. "We ask if the effect on the relative's interests will be direct and significant" — such as establishing a right that the relative asserts or eliminating a theory of liability, he said.

A Supreme Court spokesman said neither Baxter nor the court would comment on the matter.

Plaintiffs attorney Evans said the timing of the suit is coincidental. She agreed that pregnancy discrimination claims generally [are on the rise](#). "It's a complicated area of law," she said. "But the law is very clear that you can't discriminate against someone for their pregnancy."

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