

A 50-year-old man was set to marry a 25-year-old woman when the woman called off the wedding two days before it was set to take place. The man had spent over \$200,000 on the lavish ceremony, reception, and honeymoon. He sued the woman in federal court to recover half of this amount.

During voir dire, the man's attorney attempted to use all three of his peremptory challenges to exclude three potential jurors who were 25 years old. The woman's attorney objected. The man's attorney explained that he was striking the three potential jurors based on their age.

If the court believes the attorney's justification for the peremptory challenges, will it strike those potential jurors?

- A. No, because civil litigants are entitled to only one peremptory challenge.
- B. No, because the age of the potential jurors does not reveal any bias or lack of impartiality.
- C. Yes, because peremptory challenges can be used for any reason.
- D. Yes, because peremptory challenges can be used to strike potential jurors based on their age.

Explanation:

Challenges to potential jurors

(FRCP 47)

	Number allowed	Basis for disqualification
Peremptory	3 per party*	<ul style="list-style-type: none">Any basis other than race, ethnicity, or genderNo explanation needed
For cause	Unlimited	<ul style="list-style-type: none">For bias or lack of impartiality—eg:<ul style="list-style-type: none">relationship with partyfinancial stake in party

FRCP = Federal Rule of Civil Procedure.

*When a civil action involves multiple plaintiffs or defendants, the court may grant each side (1) three peremptory challenges or (2) more than three peremptory challenges that each side's parties exercise separately or jointly.

Voir dire is the stage in a **jury trial** when the court, parties, or attorneys question potential jurors about their backgrounds and potential biases. During this process, each party may **strike potential jurors** from serving on the jury through:

- three peremptory challenges**, which can be used to strike a potential juror for any reason (other than race, ethnicity, or gender) without explanation (**Choices A & C**) *and*
- unlimited challenges for cause**, which can be used to strike a potential juror for bias or lack of impartiality (**Choice B**).

Here, the man's attorney attempted to use all of his *peremptory* challenges to exclude three potential jurors. He explained that he was striking the jurors based on their age. If the court believes this justification—ie, there is no indication that the challenges are based on race, ethnicity, or gender—then the court will strike the three potential jurors.

Educational objective:

During jury selection, each party is entitled to (1) three peremptory challenges to strike a potential juror for any reason (other than race, ethnicity, gender) without an explanation and (2) an unlimited number of challenges for cause to strike a potential juror for bias or lack of impartiality.

References

- Fed. R. Civ. P. 47(b) (peremptory challenges).

- 28 U.S.C. § 1870 (jury challenges).
- J.E.B. v. Alabama, 511 U.S. 127, 143 (1994) (explaining that peremptory challenges may be used to remove potential jurors based on their age).

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