

A former secretary sued a large corporation in an appropriate federal district court for violating the federal sex discrimination statute. The secretary seeks to recover \$1 million and properly requested a jury trial.

During voir dire to seat a six-person jury, potential jurors revealed several facts about themselves. An elderly woman stated that she did not believe that female employees fired for discriminatory reasons deserve compensation because "people blame everything on sex." A contractor explained that he did not want to serve on the jury because he really wanted to get back to work. A man revealed that he is the brother of the defendant's lawyer. A businesswoman said that she owned stock in a retirement fund that she did not think contained any of the corporation's stock, but she could not be 100% certain.

If the secretary's counsel seeks to strike each of these potential jurors from serving on the jury, which potential juror can only be stricken with a peremptory challenge?

- A. The businesswoman.
- B. The contractor.
- C. The elderly woman.
- D. The man.

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.

In all federal civil cases where the amount in controversy exceeds \$20, the Seventh Amendment guarantees the **right to a jury trial**. To select the jury, the court, the parties, or the parties' attorneys may **question the potential jurors** about their **backgrounds and potential biases**. During this **voir dire** process, each party can **strike potential jurors** from service through:

- challenges for cause** – to strike a potential juror based on his/her **inability** to serve as a **fair and impartial** finder of fact (eg, financial stake in a party, bias, relation to party or party's counsel) *and*
- peremptory challenges** – to strike a potential juror **for any reason**—except for race, ethnicity, or gender—without an explanation.

Here, the secretary's attorney can successfully challenge three of the four potential jurors for cause. The businesswoman may have a *financial stake* in the corporation through her retirement fund stock (**Choice A**). The elderly woman displayed a clear *bias* by stating that she did not believe that female employees fired for discriminatory reasons deserve compensation because "people blame everything on sex" (**Choice C**). And the man is the *brother* of the defendant's attorney (**Choice D**).

However, the contractor's statement that he did not want to serve on the jury because he wanted to get back to work reveals no basis for a challenge for cause. This response may cause the secretary's counsel concern as to whether the contractor will take jury service seriously but does not show that he will be unable to serve fairly and impartially. Therefore,

the secretary's counsel must use a peremptory challenge to strike the contractor. And since there is no indication of a racial, ethnic, or gender-based motive for the challenge, it should succeed.

Educational objective:

During jury selection in a federal civil action, each party may strike potential jurors from service through (1) challenges for cause—to strike a potential juror for bias or lack of impartiality—and (2) peremptory challenges—to strike a potential juror for any reason (except race, ethnicity, or gender) without explanation.

References

- Fed. R. Civ. P. 47 (jury-selection process).