

Managing For Cause & Peremptory Strikes Effectively

Practical Guidance:
A.B.A. Principles for
Juries & Jury Trials

**“[E]nsure...the process ...
effectively serves ... assembling
a fair and impartial jury.”**

- **Challenges for cause**
 - ✓ **Basic grounds clearly established by law**
 - ✓ **No limit in number**
 - ✓ **Rulings based on juror demeanor & responses to questioning**
 - ✓ **Granted if reasonable doubt about fairness/impartiality**
 - ✓ **Recorded reasons for each grant or denial**

Peremptory Challenges

- **Quantity limited**
- **Alternating between the parties**
- **Exercised subtly so as not to prejudice panel**
- **Time for attorney consultation with client**
- **Jury not sworn until challenges completed**
- **Race/gender/ethnicity reasons are forbidden (the Batson doctrine)**

The *Batson* three-part inquiry

- **Party must show totality of circumstances lead to “inference” discrimination occurred.**
(Presumption: valid use of peremptory strikes)
- **Responder must explain non-discriminatory reasons for each peremptory strike.**
- **Court evaluates the sufficiency and credibility of the parties’ assertions. (Pretext at play?)**
Ruling based upon clear factual record.

Court can raise *Batson* challenge on its own.