

Effective Use Of The Law Of Juror Selection

Experienced trial lawyers recognize the critical importance of attorney-conducted voir dire in assuring the fair trial of civil actions. While much has been written about the style of inquiry on voir dire, many attorneys have little concept, beyond a vague notion that each juror must agree to be “fair,” of the specific grounds which justify a challenge “for cause.” The purpose of this article is to review the statutory provisions, practice rules, and case law as they relate to qualification and disqualification of jurors.

The intelligent exercise of challenges to jurors for cause requires not only careful voir dire technique, but also clear knowledge of the provisions of the Rules of Practice and Procedure, as well as Minnesota statutory law, which provides the grounds for challenges for cause. Careful and even-handed application of the Rules by thoughtful trial judges, in combination with careful and probing voir dire conducted by skilled trial counsel will serve to greatly enhance civil justice in the State of Minnesota.

Imagine doing voir dire in a soft tissue case and then encountering the following exchange:

Attorney: Do any of you feel there are too many lawsuits today?

Juror #1: Yes, I certainly do. People are just too suit happy.

Juror #2: I agree.

Attorney: Is there anyone here that feels that chiropractors are less able to diagnose and treat injuries to the neck and back than a medical doctor?

Juror #3: My father was an orthopedic surgeon. He always called chiropractors “chiro quackers”. I really don’t think much of them.

Juror #4: I am a secretary for an orthopedic surgeon--I really have questions about chiropractors’ abilities.

Attorney: Your honor, I move to excuse Jurors #1, 2, 3, and 4 for cause.

Defense: Your Honor, may I inquire?

Court: You may.

Defense: Juror #1, notwithstanding your feeling there are too many lawsuits, can you be fair to Mr. Plaintiff in this case?

Juror #1: Yes. (Defense repeats the same questions, with the same response from each of the additional jurors)

Defense: Your Honor, we object to Plaintiff’s attempt to remove the jurors.

Court: Motion to excuse is denied.

Knowing that you have only two peremptory strikes, what do you do now?

The purpose of this article is to review the provisions of Minnesota statutes and Rules of Procedure that provide additional grounds to remove potentially biased jurors.

The Legal Framework of Juror Qualification

The basic qualifications for civil jurors are set forth in Rule 808 of the General Rules of Practice for District Courts. (Source: Rule 808(b))

The Rule goes on to note that a prospective qualified juror who is 70 years or older who requests to be excused from jury service shall be automatically excused without the necessity of submitting evidence of an inability to serve.

Persons who are eligible pursuant to Rule 808(b) are not disqualified unless they are a judge serving in the judicial branch of the government.

Rule 809 of the General Rules of Practice specifically prohibits discrimination based upon race, color, creed, religion, sex, national origin, marital status, status with regard to public assistance disability, age, occupation, physical or sensory disability, or economic status.

In *Batson v. Kentucky*, 476 U.S. 79, 106 S.Ct. 1712 (1986), the Supreme Court held that the Equal Protection clause of the U.S. Constitution is violated when a prosecutor uses peremptory strikes to remove jurors based upon their race. When viewed in connection with Rule 809, it is apparent that *Batson* may bar the use of peremptory strikes based solely on race, or any of the other basis for discrimination prohibited by Rule 809.

Of course, jurors, although qualified, may nonetheless be challenged for cause.

The information you obtain from this article is not, nor is it intended to be, legal advice. You should consult an attorney for individual advice regarding your own situation.

About the Author

A [lawyer or attorney in Minneapolis MN](#) at the law firm of Schwebel Goetz and Sieben can provide you with an experienced [personal injury attorney or lawyer in Minnesota](#).

Source: www.isnare.com

Source: <http://articles.exospy.com>