

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

DANIEL J. REGAN AND
FRANCIS ELWOOD REGAN, JR.

CIVIL ACTION NO. 06-1257

VERSUS

JUDGE S. MAURICE HICKS, JR.

STARCRRAFT MARINE, LLC, ET AL.

MAGISTRATE JUDGE HORNSBY

MEMORANDUM ORDER

Pursuant to Title 28, United States Code, Section 1870, Defendant John C. Vandergriff (“Vandergriff”) seeks additional peremptory challenges. The basis of Vandergriff’s request is that his co-defendant Starcraft Marine, LLC (“Starcraft”) has asserted a cross-claim against him. Starcraft claims that the accident in question and Plaintiff Daniel Regan’s (“Regan”) injuries were the result of the fault of Vandergriff and Regan. See Record Document 248 at 2. In its cross-claim, Starcraft argues that Vandergriff was negligent in a variety of respects and seeks indemnity or contribution. See id. at 2-3.

Section 1870 provides in pertinent part:

In civil cases, each party shall be entitled to three peremptory challenges. Several defendants or several plaintiffs may be considered as a single party for the purposes of making challenges, or the court may allow additional peremptory challenges and permit them to be exercised separately or jointly.

28 U.S.C. § 1870. Under this statute, this Court enjoys the discretion to allow three peremptory challenges to Plaintiffs and either allow a total of three to Defendants, or three to each Defendant to be exercised separately or jointly. See Rogers v. De Vries & Co., 236 F.Supp. 110, 111 (S.D. Tex. 1964); Nehring v. Empresa Lineas Maritimas Argentinas,

401 F.2d 767, 768 (5th Cir. 1968).

In light of Starcraft's cross-claim, it is apparent that there will be times during the jury trial that Vandergriff's interests will be adverse to those of Starcraft's. Accordingly, the Court finds it appropriate to allow Vandergriff three peremptory challenges and Starcraft¹ three peremptory challenges. These challenges shall be exercised separately, in writing, and without conference, collaboration, and/or collusion between Vandergriff and Starcraft. See Nehring, 401 F.2d at 768.

IT IS SO ORDERED.

THUS DONE AND SIGNED, in Shreveport, Louisiana, this 12th day of October, 2010.



S. MAURICE HICKS, JR.
UNITED STATES DISTRICT JUDGE

¹Starcraft's peremptory challenges shall be shared with its insurers, Lexington Insurance Company and New Hampshire Insurance Company.