

Mistrial Declared in Dewey & LaBoeuf Case

By Kevin Jones, J.D. Candidate 2018 | November 5, 2015

People v. Davis, the Manhattan criminal trial for three former senior executives from big-time law firm Dewey & LeBoeuf LLP, ended in a [mistrial](#) due to a hung jury. The jury of seven women and eight men acquitted each defendant on several counts of falsifying records and remained deadlocked 8-4 on the remaining 93 charges relating to fraud, larceny, and conspiracy. Defendants Steven H. Davis, Stephen DiCarmine and Joel Sanders were originally charged with a total of 151 counts, ranging from minor felonies to grand larceny, a charge that would have potentially made each of them face a prison sentence of [25 years](#).

According to the prosecution, the three defendants had allegedly stolen over \$200 million from insurers and financial firms in a fraudulent [scheme](#) that involved manipulating the firm's accounting reports in an attempt to cover up its dire financial situation. Dewey & LeBoeuf LLP then collapsed and filed bankruptcy in 2012. Experts estimated the firm owed about \$245 million to creditors. Defense counsel [rebutted](#) the allegations, contending the demise of the firm related to mass departures of "[greedy](#)" partners and that the defendants never had any intention to defraud investors.

After a three-and-a-half month long trial with forty-one witnesses called for the prosecution, many legal scholars see the loss as a huge blow to Manhattan District Attorney's Office in its ability to effectively prosecute complex white-collar crime. Many experts and jurors who interviewed with the media believe the prosecution failed to simplify the complex fraudulent scheme for the jurors. One juror noted the sheer volume of charges to be "[ridiculous](#)" and multiple others relayed feeling frustrated and overwhelmed after 22 days of deliberation. Other media sources and experts following the trial question the prosecution for not using forensic [accounting](#) experts to better explain the alleged fraudulent accounting scheme.

While the juror's comments and a failure to earn a conviction suggest the prosecution's inability to present its theory of the case in a cohesive manner, the failure to garner a conviction may actually reflect the staunch difficulty in proving these crimes. The prosecution had the near impossible task of explaining a fraud conspiracy designed by three of the nation's most prominent attorneys to twelve individuals coming from a vast array of educational backgrounds. In fact, one juror [noted](#) how she did not feel as if a crime had been committed but simply several mistakes in conducting business. Such a comment suggests that jurors have trouble in overcoming a representativeness heuristic in their conception of a crime. In other words, white-collar fraudulent behavior does not match the salient features of many individuals' notion of a typical criminal offense. Consequently, their natural instinct is to view the defendant's behavior as nothing more than unethical behavior as opposed to a crime worthy of prison time.

Looking forward, many speculate as to whether Manhattan District Attorney Cyrus R. Vance Jr. will choose to have the case retried. Some believe the effort would remain fruitless, while others think the case is too high profile to pass up for another shot at justice.