

Colorado Lawyer's "Profiles in Success" column celebrates those individuals, living and deceased, whose contributions to the practice of law lend themselves to inspiring narratives. This article is part of the "Six of the Greatest" series honoring Charles J. Beise, Daniel S. Hoffman, Howard Jenkins, David Johnson Clarke, Bryant O'Donnell, and former Colorado Chief Justice William Erickson. To suggest an article, contact Brendan Baker at bbaker@cobar.org.



David Johnson Clarke (1914–2009)

One of the Greatest

BY JON B. CLARKE

David (Dave) Johnson Clarke died on November 9, 2009 of congestive heart failure. He was interred four days later at Fort Logan National Cemetery following a Veteran's funeral with military honors.

A broad spectrum of achievements—athlete, golf champion, band pianist, veteran, politician, legislator, and bar president—combine to make Dave "one of the greatest."

The Early Years and Family

Dave was born on August 26, 1914 at Helena, Montana, the son of Adeline Johnson and China Ray Clarke. His great grandfather, Albert Gallatin Clarke, was a hardware merchant who made oxen load trips from Missouri to the Colorado and Montana gold fields in the early 1860s, later opening a dry-goods store in Helena in 1867. The Johnsons were also a Montana pioneer family.

Dave was a prominent football/track athlete and class office holder at Helena High School. He was lucky to land a summer job at the local golf course paying a "dollar a day!" After graduating high school, he was the Montana Amateur Junior Golf Champion in 1933. He helped pay his way through the University of

Montana Law School by playing the piano in various small and "big" bands. He graduated with an LLB diploma in 1938.

First Employment

Dave's single mother¹ had a Library Science degree from the University of Chicago. She was the Montana Supreme Court's Law Librarian and was determined that Dave and his older brother, Bill, would be lawyers. Bill graduated from law school a year before Dave and did some "nickel and dime" jobs for Helena law firms, also playing a lot of golf.²

On the day Dave was sworn in by the Montana Supreme Court, his mother drove him to the eastern edge of Helena and said, "Your suitcase is in the back. There are jobs for lawyers in Washington, D.C. Goodbye!" After some 60 hitchhikes over 30 days, Dave arrived in the District of Columbia, where Montana Law alumni steered him into a position with the Antitrust Division of the U.S. Department of Justice.

In 1940 Dave was sent to Denver as part of a team prosecuting local lumber dealers accused of price-fixing. By then he had saved for and bought a cream-colored 1937 Packard



1936 summer job at Glacier National Park, Montana.

convertible. He said the car "was a lemon, but it had a great radio." In his spare time he traced the Clarke family genealogy back to Jeremiah Clarke, who arrived from Essex at the Newport, Rhode Island Colony in 1637.

Dave was introduced to Jean Goudie in June 1941, and they were married at St. Thomas Episcopal Church in Park Hill three months later. Jean was given in marriage by her uncle



Dave with wife Jean and son Jon shortly before shipping off to combat. Such “In case I don’t make it back” photos were a common practice for deploying WWII servicemen.

Dave felt he would become better known if he went into politics. In 1954 he was elected to the Colorado House of Representatives and was voted “Outstanding Freshman Member” by the press.

W. Gordon Jamieson, a prominent Denver architect and Park Hill homeowner. One Sunday afternoon, as the newlyweds were returning from a horse ride to the stables near Morrison, they noticed people gathered around a radio. Pearl Harbor was under attack.

Active Duty

Dave had anticipated the war and obtained a “Pre-Pearl” commission as an Ensign in the Naval Reserve. He was recalled to active duty in early 1942 and sent to a Naval Intelligence Unit based in Chicago. During World War I, certain German immigrants had successfully sabotaged numerous Midwest production plants engaged in manufacturing and sending war materials to Britain; Dave’s unit’s mission was to stop this from happening again. In early 1945 Dave received orders to the U.S. Naval Group, China, commonly known as the “Rice Paddy Navy.” His troopship left California, refueled in Australia, and delivered him to Calcutta, India. He was then flown “over the hump” (Himalayas) to Chunking, in Western China. This outfit’s mission was to train, equip, and lead guerilla troops in operations against Japanese forces that occupied Northern China.

In early August 1945 it was common knowledge that invading the Japanese homeland in 1946 would cost hundreds of thousands of Allied casualties. When Hiroshima and Nagasaki brought the war to an unexpected speedy conclusion, Dave’s camp erupted into joyous (drunken) celebration, “We’ve survived!” A Lieutenant on active duty, Dave held the rank of Lieutenant Commander when he later retired from the U.S. Naval Reserve.

Back to Government Lawyering

Dave’s employment in Denver with the Department of Justice resumed in 1946. Housing for returning veterans was tight, especially for families with children (the author was born in 1943). A senior officer in Dave’s Navy unit had become Chief of Security in Los Alamos, New Mexico. He invited Dave to join his staff with the inducement of being assigned a brand new single family detached residence, an offer that couldn’t be refused. In 1948 Dave was able to transfer into the Los Alamos Legal Department of the U.S. Atomic Energy Commission. In 1951 many of Dave’s veteran friends and neighbors were recalled to active duty in Korea. Jean’s elderly mother in Denver was widowed and

needed assistance, so between 1951 and 1953 Dave was an attorney for the Wage Stabilization Board (WSB) at the New Customs House. A newly elected Republican administration promptly did away with numerous New Deal agencies, including the WSB. Although Dave could have transferred to another federal government agency, he decided it was time to engage in private practice.

Private Practice, Politics, and Bar Associations

In 1938 law graduates of the University of Montana were admitted to practice on motion (no bar exam). After the war, the Colorado Supreme Court admitted to practice on motion lawyers returning from military service. Dave felt lucky he never had to cram for a bar exam. His solo practice began in the Equitable Building ninth floor suite of Harold Wagner & Carl Wyers.

Dave felt he would become better known if he went into politics. In 1954 he was elected to the Colorado House of Representatives and was voted “Outstanding Freshman Member” by the press. In 1956 he was elected to the Colorado Senate, where he served through 1960. He was offered the Judiciary Committee



1 Quick disrobe for Pole photo (at minus 60 degrees F).
2 1970 inside Capt. Scott's hut, McMurdo Sound, Antarctica.
3 Playing C-130 co-pilot en route to the South Pole.

but turned this down to become chair of the Game & Fish Committee. Having grown up in Montana, Dave was an avid upland game hunter and a keen fisherman. The author (and his teenage pals) enjoyed being advised/escorted on Dave's hunting and fishing excursions by the local game warden. Dave sponsored a revision of the Colorado Corporation Code and led adoption of the Uniform Commercial Code in Colorado. These measures were signed into law by then-Governor Stephen L. R. McNichols, who had been an usher at Dave and Jean's 1941 wedding.

After retiring from politics, Dave became active in the Colorado Bar Association and served in the 1960s on its Board of Governors. In 1965 he received the CBA Award of Merit, the association's highest honor, and an Honorary Phi Beta Kappa degree from the University of Colorado Law School. This led to a term as president of the Denver Bar Association from 1971 to 1972. In 1970 he visited the South Pole as a guest of the Commander, U.S. Naval Support Force, Antarctica. Dave was part of a group of civic leaders ("Distinguished Visitors") invited by the governments of the United States, Canada,

Australia, and New Zealand to tour the National Science Foundation's Antarctic programs.

Growing the Practice

Between the late 1950s and mid-1960s, Dave handled many types of cases as an office-sharer in the Colorado National Bank law office of the Martin & Holt firm. In 1966 he and William (Bill) P. Waggener, who had previously been at the Lewis, Grant & Davis firm, formed the Clarke & Waggener law firm, with offices in the then-new Western Federal Savings Building. By the early 1970s Dave had developed expertise as a

A lifelong golfer, Dave was still playing courses in South Dakota and Arizona at age 92, frequently ‘shooting his age’ before being sidelined by back and balance problems.



1990 Navy party with (Denver lawyer) Rear Admiral Marty Andrew; Dave wore his WWII China nametag.

business bankruptcy lawyer. In the early 1970s the King Resources Chapter 10 Public Entity Reorganization was Denver’s biggest-ever bankruptcy case. Dave represented the many holders of mechanic’s liens encumbering King’s Texas oil wells. In 1973 he took the Colorado Springs investment builder Godwin-Bevers into Chapter 11, followed a few years later by The Woodmoor Corporation’s filing. In 1973 Chris Allison joined Dave and Bill, and the firm was renamed Clarke, Allison & Waggener, with three partners and five associates. Shortly thereafter, John Steinhauer, who had been a house counsel for the Chrysler Corporation for many years, became of counsel to the firm.

In 1978 Dave turned 64 and began to think about retirement. He needed to bolster his 15 years (1938–53) of civil service, so he resumed his role as a senior government attorney in the Office of the Executive Legal Director for the Nuclear Regulatory Commission (NRC), in Bethesda, Maryland. His years of trial practice and business bankruptcy work brought new talent to be shared with senior and junior NRC staff attorneys alike. Some years later, in a 1986 Reagan Administration budget cutback, the

NRC was forced to lay off legal staff. To avoid younger lawyers (with families) being ruffed, Dave retired after 48 years, 44 of which involved lawyering. His first wife passed away in 1988, and he moved back to Denver shortly thereafter.

Retirement and Family

Dave married Doris Sparks McKenna in 1989 and moved from Englewood, Colorado to her hometown of Sturgis, South Dakota. They joined a group of Dakotan “snowbirds” who wintered in Sun City. A lifelong golfer, Dave was still playing courses in South Dakota and Arizona at age 92, frequently “shooting his age” before being sidelined by back and balance problems. In 2005 Doris fell ill with Alzheimer’s disease and spent her declining days at a nursing home in Spearfish, South Dakota. She joined Dave in heaven in 2012.

Dave Clarke is survived by his son Jon B. W. Clarke (and Jon’s wife, Elizabeth, and their children Christina and Brian) and his daughter Jean “Jamie” Hilton (and Jamie’s children Scott, Daniel, and Amanda). Jamie was formerly married to Paul Hilton, a partner at Davis Graham & Stubbs for many years who’s now

with the Hogan Lovells firm. Jon is a business bankruptcy and debt settlement lawyer with offices in the Denver Tech Center and downtown Castle Rock. Jamie is retired from teaching in the Cherry Creek system and resides in Tucson, Arizona. Dave’s five grandchildren and four great-grandchildren reside in California, Colorado, Arizona, and Japan. His tombstone reads “a life well-lived” which, in Dave’s case, says it all. **CL**



Jon Clarke (at age 17) heard his father say, “At my death I’m leaving just enough to pay for my funeral. If you want anything you’d better become a lawyer and take over my practice.” So, after “joining the Navy and Seeing the World” (or most of it in nine years), Jon took his Dad’s advice.

NOTES

1. Dave’s parents divorced when he was little.
2. Bill’s WWII Army Air Corps duties took him to North Africa and Italy, after which he became a government lawyer. He retired from the Montana Air National Guard as a Brigadier General.