

# PUBLICATION

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## Birmingham Office Born From Civil Rights Movement

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In 2003, the Birmingham firm of Berkowitz, Lefkovits, Isom & Kushner merged with Baker Donelson and, though Mr. Berkowitz had died in December 1985, the addition of his name to the surviving firm was a matter of grave importance to the shareholders of the Birmingham office.

So the question presents itself: why did the name of a man dead for almost twenty years at the time of the merger continue to carry such importance? The answer to that question takes us back into the events in Birmingham of 1962 and 1963, a time referred to as the Civil Rights Movement, events in which Mr. Berkowitz was deeply committed and involved.

Mr. Berkowitz had practiced law in Birmingham since 1928 at the age of twenty. His first legal action was a petition to have his disability of non-age removed. He practiced alone during the years of the Great Depression. Arnold Lefkovits joined him in 1950, and they practiced together for many years. But in late 1963, their small firm of two lawyers admitted three additional partners and became known as Berkowitz, Lefkovits, Vann, Patrick & Smith. The reason they came together as partners is intertwined with the history of Birmingham.

The City of Birmingham was governed by a three-person commission, one of whom was Public Safety Commissioner Eugene "Bull" Connor, who had become a virtual dictator. Under his leadership, Birmingham's reputation had suffered nationally and internationally as he and his all-white police force attempted to enforce the Jim Crow laws of Birmingham and the state of Alabama. In May 1961, Birmingham became an international pariah as the consequence of the attack, without any police intervention, by a mob on a busload of Freedom Riders.

Soon after, the Birmingham Bar Association appointed Abe Berkowitz to head a committee of lawyers to study the three forms of city government authorized by the state constitution and to recommend which would best serve Birmingham. Mr. Berkowitz understood that the real but not verbalized reason was to displace Commissioner Connor. The Bar committee recommended in February 1962 a change from the commission form of government to a mayor-city council form. But the question was, how to effect the change? Members of the committee understood that the Commissioners, particularly Bull Connor, would oppose any attempt to change the form of government.

An election had been called in August 1962 for ten new legislators representing Jefferson County pursuant to the "one man – one vote" case, *Baker vs. Carr*, which had been decided by the United States Supreme Court. David Vann, an attorney with one of Birmingham's largest law firms at the time, had been one of the attorneys who filed the action. He discussed with Mr. Berkowitz his idea of how to obtain the requisite number of signatures to call a referendum on the mayor-council form. He suggested that it could be accomplished simply by setting up booths at each polling station on the day of the election and getting the signatures in one day, before Connor could mobilize resistance. But it was then only ten days before the election. They arranged a committee to implement the plan. Serving on that committee were Abe Berkowitz, David J. Vann, J. Vernon Patrick Jr., Erskine Smith and others. It's a long story, but the plan worked, the required signatures were obtained and an election was set in November 1962 for the adoption of the mayor-council form of government, which won by a slim margin. Then in April 1963, Albert Boutwell was narrowly elected over Connor for mayor

of the city. Litigation ensued, and eventually Connor was forced from office, but not before Martin Luther King Jr. brought his Project C (Confrontation) to Birmingham.

In response, Connor, who continued in office under an appeal bond, led the police and fire departments in resistance to the civil rights marches in Birmingham during the spring of 1963, in which police dogs were used to intimidate the protestors and fire hoses were used to rout the children's protest, including the jailing of over one thousand children. Abe Berkowitz and David Vann were deeply involved in mediations among Department of Justice officials, department store owners and leaders of the African American community to resolve the racial injustices that brought about the marches. Many of those meetings occurred in Mr. Berkowitz's office.

The violence culminated on September 15 with the bombing of the 16th Street Baptist Church that killed four young girls. 1963 was a pivotal year in the history of Birmingham and in the history of civil rights in the United States. And as that pivotal year came to a close, David J. Vann, J. Vernon Patrick Jr. and Erskine Smith all lost their jobs at law firms, paying for their support of civil rights in Birmingham. It was Abe Berkowitz, their elder guru, who gathered them in like a mother hen and gave them a home.

David J. Vann, J. Vernon Patrick Jr., Erskine Smith: these were the partners in the firm. Joining them of counsel was Charles F. Zukoski Jr., the sixty-five year old head of the Trust Department of the First National Bank of Birmingham, who had been pushed into retirement because of his civil rights activities. The name of the new firm was Berkowitz, Lefkovits, Vann, Patrick, & Smith, a firm actually born out of the Civil Rights Movement.

This is the firm I joined following law school in May 1967. Though Mr. Berkowitz died in December 1985, the firm continued to be identified by his name. Forty years after the founding of the firm, it merged in 2003 with Baker, Donelson, Bearman and Caldwell, P.C., a large firm with Tennessee roots. Because the continuation of the use of his name was imperative to us in Birmingham, the surviving firm added Mr. Berkowitz' name to its title and the firm continues to this day to be known as Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., a Firm with over 630 lawyers and public policy advisors conducting a national and international law practice.

This is a summary of a longer article written by Chervis Isom, which is available for review upon request.