

# Gun Lawyer -- Episode 50 Transcript

## SUMMARY KEYWORDS

firearms, guns, gun, cleaned, federal law, individuals, steel wool, heirs, paperwork, marlin, ruining, wood, inheritance, handguns, dealer, son, leave, gun laws, law, state

## SPEAKERS

Evan Nappen, Speaker 3

### **Evan Nappen** 00:21

Hello, I'm Evan Nappen, and welcome to Gun Lawyer. Have you ever thought about how nice it would be to inherit a large collection of guns? Yeah, there is nothing wrong with that. Or the opposite? Do you ever think about your large collection of guns, and it being inherited? That is what I want to talk about today. I want to tell you, folks, some things you need to consider when dealing with inheriting of firearms. As you know, when it comes to guns, there is always laws. There are laws here, but these laws might surprise you. Let me tell you first about the federal law when it comes to inheriting firearms.

### **Evan Nappen** 01:14

We are talking about non-NFA firearms, meaning guns that are not machine guns, suppressors, silencers, SBRs (Short Barrel Rifles), or destructive devices, those things that are registered under the federal law under the National Firearms Act, putting those things aside and talking about your regular firearms, such as rifles, shotguns, and handguns. Your non-NFA guns. Well, under federal law, those guns pass to the heirs with no paperwork, no NICS check, and no 4473. They can transfer interstate without any problem, and they do not have to go through a dealer. So, if you are the heir of a firearm, the beneficiary, or you are actually an Executor managing the firearms in an estate, the bottom line is the heirs can take those guns home with them under federal law, without any necessity of going through a dealer or any paperwork.

### **Evan Nappen** 02:33

Now this does not mean that the home state of the heirs or the beneficiaries, that those laws are preempted. They are not. So, the individual has to obey the laws of the state. But as far as federal law is concerned, federal law allows for the transfer to take place essentially no fuss, no muss. No dealers, no paperwork, and no problem crossing interstate lines. They do not have to be shipped dealer to dealer under federal law. This does not mean that an individual who is a prohibited person such as a felon, or someone who has a domestic violence restraining order against them, or somebody who has a domestic violence, misdemeanor conviction, or somebody who's been dishonorably discharged or has had a mental health commitment, or any of the Federal disqualifiers or is a fugitive from justice, etc. Those persons cannot inherit the firearms and cannot take possession of the firearms because they are still a prohibited person.

### **Evan Nappen** 03:52

But if you are not a prohibited person, then federal law does not bar you, and you can avoid any of the formalities that we normally associate with acquisition of firearms under federal law. Interestingly, in effect, the paper trail ends with the inheritance. Now many states follow this as well. Believe it or not, New Jersey does. Under New Jersey law, firearms pass to the heirs with no paperwork, no permits needed, no nothing as long as the person is not a prohibited person. So, in New Jersey, specifically, if you leave your firearms to your heirs, you end the paper trail as far as Jersey is concerned and federal law is concerned. The heirs take the firearms as they would any other property in the estate.

**Evan Nappen 05:00**

If you want to really leave a great legacy, leave your firearms to individuals who will appreciate receiving those firearms from you. The provisions that allow this and make this possible are very good, but individuals don't often estate plan properly with their firearms in mind. For example, if we take a typical situation in New Jersey, let's say there is a husband and wife, and we'll just say a son. We will be sexist and say that the father and son enjoy shooting together. They go hunting, and they have gone to gun shows. They have had a great life of enjoyment of firearms together, and everybody knows that dad's guns are going to the son. It is understood. Mom has no problem with that. She tolerated guns. Again, we are being very sexist here. She tolerated their use of guns, and it's fine. The guns go to the son, everyone knows.

**Evan Nappen 06:13**

Well, mom and dad have the typical arrangement in their wills. Where dad dies first, he leaves everything to mom. If mom goes first, she leaves everything to dad. Of course, statistically, men die before women, and the husband here following these stats, predeceases the wife. And what happens? Everything that is dad's goes to mom. Because dad never said in his will, I leave my firearms to my son, mom gets the guns and all the rest of the estate because she is the beneficiary of the estate. Everything goes to mom. So, mom gets dad's guns, no paperwork, no registration, no licensing, no dealers, no 4473, no fuss, no muss. All the mom who wants the son to have the guns. Since the son was not the beneficiary, the son has to do all the paperwork, all the licensing requirements, the registrations, everything. The son now has to do all that. Whereas if dad had simply said, "I leave my firearms to my son, and the remainder of my state to my loving wife", everything would transfer to the son, paper free. If the son lived in another state, he could drive down and pick up the guns. No problem under federal law; no problem under Jersey law. He would have to simply follow the law of whatever his home state is. In many, many states there is nothing to do there either.

**Evan Nappen 08:18**

So, this is why you want to estate plan on the disposition of your firearms. Wouldn't you like to leave a legacy with no paper trail of your great gun collection to your heirs that truly love and appreciate your guns? Don't you want to save them the time, money and hassle of having to go through, especially in states like New Jersey, the ridiculous licensing procedures? By the way, New Jersey has one gun a month. So, if you want to leave your son more than one handgun and you don't make him the heir in our hypothetical, he is only going to be allowed to acquire one of your handguns a month. Unless he puts in for a special permission, which is more paperwork to allow him to acquire all your handguns at once. He still needs a pistol purchase permit for each one of those handguns, but at least he can make the acquisition in one sweep.

**Evan Nappen** 09:27

All that can be avoided by simply planning correctly. It also takes the burden off mom, because she does not have to deal with all the transfers and the paperwork required for her to do the transfers that she does not want any part of, in our hypothetical. So, it is important to consider these things and to understand how the federal and the state gun laws work in your jurisdiction. You should check and see what your state gun law is. Because my understanding, I am not a California attorney, but my understanding is that in California, you still have to register inherited firearms, you still have to take action on them. Whereas, surprisingly, in New Jersey, believe it or not, you don't. Those two jurisdictions are different, even though they are both infamous for their anti-gun laws and anti-gun rights position on just about everything. But so far on the inheritance side, New Jersey is holding its own.

**Evan Nappen** 10:35

When you consider what you need to do in the inheritance of firearms, you should have an understanding of the person who you are leaving them to and that they are not disqualified from having firearms because that causes complications. If the person is disqualified under Jersey law, the guns have to go to the police, who can then hold them. That is always a challenge and a problem. So, you really do not want to see that situation. Otherwise, if there is nobody, if you have a situation where there is no one in your family that wants your guns, nobody's interested in guns, they could care less, then feel free to leave your guns to me. No, I'm just kidding about that of course. I think that's even how soupy sales dealer got in trouble, he got fired or whatever. No, but that's just a joke.

**Evan Nappen** 11:36

But seriously, what you should do is make arrangements in advance with instructions on how to have them sold. So that they can be sold or auctioned to the proper places. Make sure you put the information down about the firearm so that the value and their unique characteristics can be appreciated with who they should go to be sold. By doing that your estate will get the maximum financial benefit. And even more importantly, the guns will go to folks that appreciate them. They will not simply end up confiscated by the police or some other problem with them. So, plan for this, okay? If your loved ones are not interested in guns, make arrangements for their proper disposition. Also, make it easy for the executor to handle that disposition by filling them in on the information.

**Evan Nappen** 12:44

I cannot tell you how many times, as an attorney, I have people call. They inherited a whole bunch of guns and have no clue what to do or how to handle it. They were left no instructions, and they do not understand value, nothing. They are just left with it where they are so vulnerable to being taken advantage of. It is really not good. You want to give them a heads up on what type of values to expect and where legitimate sources for auctioning or purchase of the firearms can be. It really makes a difference in the planning ahead on these legal issues and considerations will really pay off for you, your heirs, and your legacy. Very important. When we come back, I want to talk to you more about interesting things I have experienced when dealing with the inheritance of firearms and mistakes that I have seen people make.

**Speaker 3** 14:03

For over 30 years Attorney Evan Nappen has seen what rotten laws do to good people. That's why he's dedicated his life to fighting for the rights of America's gun owners. A fearsome courtroom litigator fighting for rights, justice, and freedom. An unrelenting gun rights spokesman tearing away at anti-gun propaganda to expose the truth. Author of six best-selling books on gun rights, including Nappen on Gun Law, a bright orange gun law Bible that sits atop the desk of virtually every lawyer, police chief, firearms dealer and savvy gun owner. That's what made Evan Nappen America's Gun Lawyer. Gun laws are designed to make you a criminal. Don't become the innocent victim of a vicious anti-gun legal system. This is the guy you want on your side. Keep his name and number in your wallet and hope you never have to use it. But if you live, work, or travel with a firearm, the deck is already stacked against you. You can find him on the web at [EvanNappen.com](http://EvanNappen.com) or follow the link on the Gun Lawyer resource page. Evan Nappen, America's Gun Lawyer.

**Speaker 3 15:18**

You're listening to Gun Lawyer with Attorney Evan Nappen. Available wherever you get your favorite podcast.

**Evan Nappen 15:35**

Alright, so we are on a topic that I find very interesting because so many people never really think about this, or they don't realize the need to think ahead for their inheritance and such. I have had various cases where individuals have had problems regarding what to do and how to dispose of their guns and all kinds of things. They are left with items that are prohibited, and you would not believe the situations that the executors and family members are left with because the person did not properly plan. You really want to do that and make this effort. Make a list of your firearms and explain the characteristics and values. Very, very important to do.

**Evan Nappen 16:37**

I have experienced individuals that inherit guns and want to get rid of them. Then they take steps to improve their value. Boy, that always makes my skin crawl. You will see folks that know nothing about guns, even when you collect firearms you see this, individuals take valuable collector's items, and then they proceed to ruin them by cleaning them and fixing them. It is just heartbreaking to see that. So many times, we encounter it because folks that are dealing with the firearms have no clue about what makes guns valuable and how the collector market works. You want things to remain original. It is disheartening when you see certain things done.

**Evan Nappen 17:40**

As a matter of fact, this is not a collectible firearm, but I can tell you a story. When I was younger, there was a newspaper that was local, and I loved to collect firearms even when I was a young man. I looked in the newspaper, and they have free advertisements on Fridays, free classifieds. They allowed individuals (This was pre-internet now) to advertise whatever you wanted as long as your maximum price was \$50 or less. So, I am looking at this ad, and it says Marlin Lever Action 3030, gun case, ammo. Just cleaned. \$50. Wow, \$50 for the gun and the ammo and all. Just cleaned; sounds like a great buy. So, I call the fellow up and he says Oh yeah, I have it. Come on down.

**Evan Nappen 18:50**

So, I go to see him. It was pretty close to where I lived. I get there and he has 10 boxes of 3030, and he has the box that the scope came in. It's got a nice, new gun case. He unzips it and takes out this Marlin 3030. At first, \$50 for all this? That is a fantastic deal. He hands me the Marlin, and at first, I go Whoa, a stainless Marlin 3030. At that time, there was no such thing as a stainless Marlin 3030. The only stainless long arm on the market was the Ruger Mini 14. When did they make a stainless Marlin? I was just blown away. Then I looked carefully, and it was not a stainless Marlin. The individual who had "just cleaned it" thought that cleaning a gun entailed going on a buffer wheel and removing all the bluing from the gun. A brand-new gun virtually. He removed all the bluing. So much so, that when I was handed it, I thought I had a stainless-steel gun. I cannot believe this guy removed all the blue. "Yeah, I cleaned it with a wire wheel, a buffer wire wheel. Got it all off. Cleaned it all off.

**Evan Nappen 20:28**

And I'm like, man, but for \$50, it was still worth it for a fully functional Marlin 3030 in those days with all those accessories. Still worth 50 bucks even though it was "just cleaned". I then proceeded to reblue the whole gun and made it decent. But man, that was really something - just cleaned. You would be surprised how many folks do stupid things like that. I have seen it not just on guns but also on knives. You see great military guns that have been sporterized. At one time military guns were cheap enough people didn't think about it. They cut them down and turned them into "sporting guns". Of course, ruining the historic and military value to it. Then you see folks that have taken collectible guns and had them nickel plated. How nice! Why did you do that to this thing - nickel plated. It just makes you go crazy when you see it because they just ruined the value.

**Evan Nappen 21:49**

Even rebluing certain collectible guns; you think oh, I'll just reblue it because look at the wear on it. But if it is an antique collectible and you reblue it, you just ruined the value. Now that it is reblued, you have spent money to make it worth less. Don't you love that when people spend money and time to make it worth less? That is what you do not want to do with any collectible. You need to know what you are doing. Now I am not saying there aren't ways to restore a firearm properly, to clean it correctly, to preserve it properly. Sure, there are, but unless you know what you are doing, do not touch it. Leave it to those that know. Don't even mess with it. Many times, you will actually detract from it before you can actually increase its value.

**Evan Nappen 22:53**

Now I am going to tell you some tricks that actually can help in restoring firearms. Again, if you are not familiar with any of this, do not mess with it. If you do like to restore firearms and other things, I will tell you one trick that has really proven extremely useful. When you have surface rust, a little bit of surface rust or something you need to remove that has been there, like oil that is caked on it or whatever, one of the best things for that is four zero (0000) steel wool. Not three zero (000). Not two zero (00). Not one zero (0). Four 0 (0000) steel wool. Super super fine. I have found that you can rub 0000 steel wool over a blued surface, and it will not affect the bluing. Now I am not saying rub it like Superman. But gently with 0000 steel wool and with a little bit of oil, your favorite oil, you will remove the surface rust, and it is delicate enough not to affect the finish.

**Evan Nappen 24:22**

I only suggest doing this at your own risk and pace. Make sure you know what you are doing, but I think you will find that 0000 steel wool is a useful tool. It is really something that has helped me to bring back many surfaces of blued firearms. The other trick that has really proven to be great. When you have certain wood, particularly wood that has been on military firearms, not so much sporting wood that has been glossy or really coated with some kind of gloss, a polyurethane or whatever coating, I am not talking about stocks like that, your fancy, real nice sporting stocks. If you get military guns with the wood stock, they are normally not treated with any kind of glossy finish, but you look at that wood, and you say boy, it could really use a little bit of a pepping up, and is there a way to do it without ruining the wood, ruining the value, suddenly making this military gun lose its character because you have put some modern finish on it.

**Evan Nappen 25:45**

One of the things a buddy of mine showed me that I found to be very useful is to make a mixture of half linseed oil and half turpentine. I find that if you make that mixture and rub it on a military stock, it really cleans it up, brings the grain out and makes it look really great. The linseed oil soaks in, and the turpentine just gives it a cleaning. Together that mixture can really enhance wood. Particularly the untreated, military-type wood that you might find on an M1 Carbine, an M1 Garand or Mauser wood. It can really make it pop. Again, this is at your own risk, and I am not saying this is the magic bullet. I have found personally that this mixture is very effective. You can even rub it on with a cloth, and then you can use a little 0000 steel wool back. Then put a little more on, and you can really bring out the wood beautifully, without taking away its character, without destroying its value. It actually can enhance the value because it makes it look so nice without being turned into some glossified, shiny thing that people go "Oh my God, why did you do that?"

**Evan Nappen 27:37**

These are just some of the tricks. There are other things I am sure many of you know as well that like to do restoration in the right way. It is something that I have spent years doing, and I know many of you have. There is an art to it, and there are things that you never want to do that can ruin the gun. This is why people that are not familiar with firearms and try to do things to clean it and to bring it back can often destroy it, and you do not want to fall into that category. So, know what you are doing or don't do it. The best is to leave it to those that are familiar and confident based on lots of experience in doing these things through their life.

**Evan Nappen 28:30**

So, make your plans, know your laws for inheritance, and do not be that guy who screws up some beautiful collectible. Do not "clean it" or nickel plates it to make it look better. Oh, you know or "here's a blade that's unsharpened but it wasn't as sharp as I like it. So, I put it on a stone." Then you get all the scratches on the knives. Couldn't you just have left it alone? Instead of just scratching it. Or the best one with knives. "They put it in one of those knife sharpeners in the back of the electric can opener." It just grinds the hell out of it. Here's this great collectible. A U.S. military, fighting knife that the guy felt he had to grind sharpen on the back of a can opener. Hundreds of dollars just being ground away in value. Don't do that, please. These are the kinds of idiotic things that make us collectors cringe.

**Evan Nappen 29:44**

Alright folks, well, this is Evan Nappen, reminding you that gun laws do not protect honest citizens from criminals. They protect criminals from honest citizens.

**Speaker 3** 29:57

Gun Lawyer is a CounterThink Media production. The music used in this broadcast was managed by Cosmo Music, New York, New York. Reach us by emailing [Evan@gun.lawyer](mailto:Evan@gun.lawyer). The information and opinions in this broadcast do not constitute legal advice. Consult a licensed attorney in your state.