

# Gun Lawyer -- Episode 113 Transcript

## SUMMARY KEYWORDS

atf, biden, gun, inspectors, new jersey, firearms, inspections, law, revoke, willfully, willful, gun rights, fight, evan, state, ira, license, gun dealers, hearing, lawyer

## SPEAKERS

Evan Nappen, Speaker 3, Ira Levin

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

Hi. I'm Evan Nappen, and welcome to Gun Lawyer. So, today we have a very special guest in the studio and that is somebody who I am really, really excited to have been able to help. Together our guest, whose name is Ira Levin, we defeated Biden. That is correct. We defeated Biden. And that's because Joe Biden put forward an arbitrary policy that was not something done by the legislature, but something done by fiat. And it created a situation in which top gun dealers, range operators, etc, became vulnerable to being destroyed, having their businesses utterly destroyed based on this arbitrary rule. We're gonna get into it, and how we fought it, and how this made a huge difference. And how, despite the efforts of the Biden administration, there are elements in the law that had been put there to protect us. And in fact, in this case, that's exactly what happened.

### **Evan Nappen** 01:48

I want to first mention our show's sponsor, ANJRPC, which is the Association of New Jersey Rifle and Pistol Clubs. They are a great organization that defends our gun rights in New Jersey, and I would encourage everyone to be a member of the Association. It's the state affiliate of the NRA. It's the umbrella organization of gun clubs in New Jersey, and they have full time lobbyists down in Trenton. And they never sleep. Let me tell you

### **Evan Nappen** 02:23

But let me introduce to you, Ira. Ira, thank you for being on the show today.

### **Ira Levin** 02:29

Thank you for having me, Evan. I appreciate it.

### **Evan Nappen** 02:31

Now, Ira, first of all, I would like our listeners to know about you. You're a veteran. First of all, correct?

### **Ira Levin** 02:42

That's correct. I was in the Air Force for just over five years.

### **Evan Nappen** 02:46

Then at a certain point, you became involved in the firearms business. How did that come about?

**Ira Levin** 02:57

If you remember back, New Jersey passed a law that said that you could only purchase one handgun every 30 days. When that law passed, or when the legislation passed, I said to my wife, I said, this is the most ridiculous legislation. If they think this is going to stop gun crime. No one's buying a gun legally, and then selling it to somebody on the side so they can go and commit crimes. The person gets caught, where's the gun come from? They go back to the buyer and say, Where's your gun? How many

**Evan Nappen** 03:28

Wait a minute, wait a minute. Ira, you mean to tell me that people don't go through the entire New Jersey permitting process so they can get guns papered to themselves, so they can then sell them on the street. Really? That's amazing.

**Ira Levin** 03:44

So, I said to my wife, I should get my license and help people buy guns legally as cheap as possible. And she said, you know what, why don't you do it? So, I applied, and I started doing FFL transfers out of my home. Eventually I became so busy that I had to move into a little shop, and I've since grown that into a multimillion-dollar business.

**Evan Nappen** 04:07

That's great. And what's the name of your shop for those that may not know?

**Ira Levin** 04:10

Legend Firearms. I'm located in Monroe, New Jersey, inside the Union Hill Gun Club.

**Evan Nappen** 04:17

Okay. There is also where there's firearm training and range facility. Right?

**Ira Levin** 04:27

Right. We have it's a 24-hour facility. It's a private club. It's very reasonably priced. We also have a training group on site. ROC Training is run by Rocco La Rocca. So, he does all the training, him and his people and obviously they're very busy right now with the concealed carry classes.

**Evan Nappen** 04:44

Right. New Jersey, of course, is a challenging environment to be involved with firearms. Probably the most challenging, and yet your problem that you ended up having was not with New Jersey. Isn't that so?

**Ira Levin** 05:02

That's correct. My issue was with the ATF. I have never had an issue with the state of New Jersey.

**Evan Nappen** 05:08

Now, tell me, when you're a gun dealer ATF has a certain job to do when it comes to licensees. And that I guess involves doing various inspections and such. And you've had inspections through the years, correct?

**Ira Levin** 05:26

Yes, I've had a number of inspections since 2009, when I first started my business.

**Evan Nappen** 05:32

Right, and how would you characterize your relationship with the ATF?

**Ira Levin** 05:41

Excellent. I always had a great relationship. I still have a good relationship with the people who inspected me.

**Evan Nappen** 05:46

Right. In fact, you were rather shocked, I'm sure, when you were notified that they intended to revoke your FFL. Isn't that so?

**Ira Levin** 06:02

Yes. I mean, I remember the day very clearly. I got a call from my daughter, who runs the shop along with me, and she says, Daddy, someone from the ATF is here. And they just dropped off a letter to you. And she started to read it to me. And when she got to revocation, I said, stop. I'm on my way into the store. I was in disbelief.

**Evan Nappen** 06:24

And it ended up that the heart of their problem was the claim that you had conducted what? What was the heart of their issue?

**Ira Levin** 06:39

I had willfully flouted the law. I believe is the right word. That I had willfully done transactions that were outside of the scope of the legal definition that they provide, which is, you know, come in to do your paperwork, you have to pick up the firearm within 30 days, provided that you're approved during your NICS check. So, we

**Evan Nappen** 07:04

Right, go ahead. No, I was going to say so three persons they claimed you did not perform NICS checks on, but in fact, you did perform NICS checks, didn't you?

**Ira Levin** 07:16

We did perform NICs checks. Absolutely.

**Evan Nappen** 07:18

And they all passed the NICS checks that you performed, correct?

**Ira Levin** 07:22

Yes, absolutely.

**Evan Nappen** 07:23

So, the problem was what then? How could they say you didn't do a NICS check, when in fact, you did NICS checks, and all these people pass their NICS check?

**Ira Levin** 07:33

Well, you know, I don't know specifically what the law says. But I can tell you that ATF says, If someone fills out a 4473, regardless of how, which is the form you fill out when you purchase a firearm, regardless of how long the background check or the NICS check takes, that person has to pick up that firearm within 30 days, or that form is dead. If they pick up the gun on the 31st day or the 35th day and you use that same form, they consider it a transfer without a NICS check.

**Evan Nappen** 08:05

So, anything over 30 days, ATF takes a view that you need to do another NICS check. Now this other NICS check that ATF wants you to do is no different than the NICS check that you performed originally, right? Same NICS check?

**Ira Levin** 08:26

That's correct. It's the same NICS check.

**Evan Nappen** 08:28

And given that, really, it's simply a matter of an arbitrary period of time that ATF has chosen to say, oh, well, after 30 days, you have to do another one. Right?

**Ira Levin** 08:44

That's correct.

**Evan Nappen** 08:44

That's right. And go ahead.

**Ira Levin** 08:46

You know, what surprises me most is something I actually learned from you during a conversation with ATF was that, in states, which ATF maintains New Jersey is not one of, in states where you have a concealed carry permit, you need a NICS check once every five years.

**Evan Nappen** 09:04

Correct. That's called the Brady exemption and the ATF, they put out a list of states that have licenses that they are willing to say, make it so that if it meets their criteria that they establish, you don't need to get a NICS check. One of the criteria of their license requirements is that a license cannot be valid for over five years. So, with all these states that have the NICS exempt licenses, you can have a license where you haven't undergone a background check for literally, four years, 364 days. You haven't had a

background check. And you could sell a firearm with no NICS check at all, to that individual who all those years has not had any background check. And ATF is perfectly fine with that, because the law actually permits that. Correct?

**Ira Levin** 10:09

That's my understanding. Yes.

**Evan Nappen** 10:11

It is. Yet here, they're attempting to revoke, absolutely revoke, your license, destroy the business that you built, destroy your livelihood, destroy your investment, and your passion over a rule that isn't even an official rule, but rather a promulgation by the Biden administration saying any dealer that didn't perform a NICS check, you move to revoke. And that's what happened to you. Right?

**Ira Levin** 10:50

That's correct.

**Evan Nappen** 10:51

Yes, they do. So, after we pointed this out to them, because the process begins where you have an informal hearing at first. Prior to Biden's politicization of the issues to just try to close down and intimidate gun dealers, ATF would reasonably hold an informal hearing, where most of the time, you would just work things out, do whatever they needed, if there were some adjustments needed. And you could continue to do your business and continue with ATF in excellent relations. And that's normally how it went. But not this time, because there was this mandate placed upon the agency by Biden, to move for revocation. So, after we had that informal hearing, where they could have simply resolved the matter, they said, no, we're going to go to a final hearing. And the final hearing is where we had to argue and present a case that was actually being recorded by ATF. If we were unsuccessful at this next hearing, then the next step was going to the Federal Court on their attempt to revoke your license. When we come back from the break, we're going to get into that final hearing, and how it went down and what the result was, and why.

**Speaker 3** 12:30

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 13:44**

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

**Evan Nappen 13:59**

Welcome back to Gun Lawyer. I'm Evan Nappen, and today in the studio, we have a special guest. Ira Levin of Legend Firearms. We're talking about how, together, we were able to beat Biden at his administrative attempts to destroy gun dealers throughout America. This is a really interesting case because it ended up pulling in the 1986 Gun Owners Protection Act provisions that we're going to talk about, and other gun dealers who may be facing the same challenges can use the same law.

**Evan Nappen 14:45**

I want to tell you that our sponsor Association of New Jersey Rifle & Pistol Clubs. It's a great organization and is at the forefront in New Jersey fighting for our rights. I've been a part of the Association for many, many years. Helping with litigation and legislative analysis. And I want to tell you, you need to be a member of your state organization. There are plenty of great gun groups out there. This is not to say to only belong to the Association. But at a minimum, if you care about your gun rights in New Jersey, particularly, you need to belong to the Association of New Jersey Rifle & Pistol Clubs. Go to [anjrpc.org](http://anjrpc.org). Make sure you have your membership because when you're a member, they send out email alerts, so you know exactly what's going on. They have a full-time lobbyist, a paid lobbyist, in Trenton. We're on top of it. You're able to make a difference, and by following the emails, you can virtually instantly let your legislators know your position on these gun bills. Know the progress. Know the laws. Know what you can do to protect yourself if the laws are going to go through. We're in a big fight. New Jersey is the front line in the battle for gun rights, and the Association is there for you. So, make sure you join.

**Evan Nappen 16:12**

So, IRA, I was really interested when we went to this final hearing. I think they had about eight people there from ATF. I think it was. They had to make sure they had lots of folks to go against me, I guess. But it was interesting in their approach, because they had themselves in the allegations against you, claimed something that was utterly and completely untrue. What they claimed, that was so unbelievably untrue, was that your violations were "willful". Now the reason they use the word willful, is that is in the law as to what must be proven and/or demonstrated to have a revocation. The willful standard was put into the law in the Gun Owners Protection Act because of the abuse that had taken place prior. That's why the pro-gun forces were able to get the standard to willful and that willful standard meant you had to have intention, or that you had a callous disregard for what you were doing. And of course, none of that was true in your case. Exactly the opposite. You were incredibly diligent and responsive to ATF, and you, at every turn, simply want to obey the law and conduct your business properly pursuant to the license. And that is a fact. Yet they still made this outrageous allegation, frankly, defamatory in my view, to claim that you acted willfully. Tell us about your relationship with ATF, Ira.

**Ira Levin 18:21**

Well, I mean, obviously, when you first get into this industry or this business, you fill out your applications for your firearms license. An inspector, which is the first time you meet, will come out to

look at the facility, introduce themselves and go over what's required for each space. Every time you move, which I moved several times as my business grew, you had subsequent inspections, in addition to the standard inspections that you're subjected to, annually by ATF. My relationship with, and obviously I won't use any of the inspectors' names, have always been, you know, very good. I always seek to cooperate. You know, maybe more so than some other dealers. Because, you know, it's as important to me as it is to them, I think, to prevent firearms from falling into the hands of people who should not have them. When I was in the military, I swore an oath to protect and defend the Constitution of the United States. And I still take that oath very seriously. I have friends who are firearms dealers in this state who took that same oath as police officers. And I know they take it very seriously. The inspectors know, and the inspectors knew, and one even mentioned in their testimony, that what I did, they believed was not willful, which to me was a big win. When you were questioning that particular inspector, and it was just question after question after question. Then you said, do you believe this was willful? And that inspector said, absolutely not. I almost fell off my chair.

**Evan Nappen 20:00**

Well, that's how you do cross examination in the right way. We brought it on piece by piece and laid the foundation to demonstrate and have their testimony demonstrate that you did not do any of this intentionally or with callous disregard. In fact, they even testified that it was the opposite until finally, they were themselves in a box where they had to admit, it wasn't willful. And if it's not willful, then it's not revocation. Okay, and that is the law. And that's how to use the very, that very factor that was placed into the law for just this reason, so that ATF could not do what they attempted to do to you, because they had done it in the past. And that was purposely put into the law. And he could see how critical it was in making the difference. You testified and were excellent in how you explained everything about yourself and how passionate you are. I know that that hit home as well. And that your relationship with ATF was so cordial and so cooperative. Didn't you mention something about them even bringing doughnuts? How was that story? How did that go?

**Ira Levin 21:35**

Yeah, during one of my inspections, well, look, anytime I've ever had an inspection, you know, if I'm getting lunch, or I'm doing something, I will always ask the inspectors, hey, do you guys want anything? Do you need anything, whatever. Now that I'm a bigger dealer, my inspections take a much longer period of time. One of my inspectors was there on site for well over a week or two weeks. And you start to you know, you talk to them, what do you do, you know, where you go vacations, this and that. It's not an interrogation for two weeks. They're looking through paperwork to make sure there's no errors. And this one particular inspector that happened to mention that they baked doughnuts, and I'm a fairly zaftig guy, you know. I don't try. I won't turn down a donut. And I may have mentioned that. And so, you know, they did some baking over the weekend in between inspection periods and brought in some donuts. They were great donuts, by the way. I mean, they were very good.

**Ira Levin 22:35**

But it's important. This whole case, I think, is predicated, not based on what inspectors found, because the inspectors found some things, and I worked with them to correct them. They issued me a letter saying, hey, here's what we found. We just want to let you know. You can't do this in the future. Don't let it happen again. And I really believed that was the end of it. Then, all of a sudden, I got a letter of

revocation. Months later. I mean, six months later. I do believe that's predicated on the Biden administration's direction to ATF. Because sitting in that room that you mentioned, there were eight people, four of those people had previously inspected me. Four of those people testified to me not having those errors or issues in previous inspections. And it was this one particular inspection where they discovered these issues. I think that the person who, you know, was running the hearing, again, I won't mention his name because I think that would be unprofessional, did not speak with those inspectors and say, hey, is this guy a guy who, you know, he's a problem, we got to get rid of this guy? Or is this guy a good guy, and this is an error. Because, you know, occasionally, human beings make mistakes. Because this can't be the only career field where zero mistakes are expected.

**Evan Nappen 23:55**

There's no question ATF was professional. No question. They acted professional. Through the hearing, they were professional. But you and I know that the timing of this and the purpose behind this and how this normally would have been handled, was Biden's fingerprints all over it. The good news is, as much as he tried to destroy you and other gun dealers with this fiat that he decided to put out, it failed here. And it is great to actually see a system work. Of course, we raised other issues in your hearing that raised the pot, raised the ante, if you will, because if they had tried anything, we were going to federal court, and we were going to pursue even other legal issues raised. Not the least of which is whether a NICS check is even something they can require if you have a New Jersey handgun purchase permit. Because the New Jersey handgun purchase permit meets the standard in the law to get that Brady exemption even though ATF has never certified it as having the Brady exemption. So, these are things that all were on the table as well.

**Evan Nappen 25:18**

Yet, we were super pleased when the letter came to you. I know you posted the letter, and I just want to read a section of it so the listeners can see how this goes. It says, on March 21, 2022, the Bureau of Alcohol, Tobacco, Firearms, Explosives issued a notice to revoke or suspend or impose a civil fine to your FFL, Racing Rails, LLC DBA Legend Firearms. Now notice, by the way, they could have not just revoked, which was the Biden mandate, but they also could have suspended and/or imposed a civil fine. All those other options that they had. Then it said, the notice alleged that you willfully violated rules and regulations prescribed and then he lists all the laws. The final sentence of that paragraph, after reviewing all testimony and evidence introduced at the hearing, I have determined not to issue a final notice of revocation in this matter. So, it was a total victory. And it was just wonderful. When did you learn of the victory, Ira?

**Ira Levin 26:35**

I was on a cruise in the Caribbean. My daughter called me on FaceTime and said, Daddy, there's a letter here from ATF. Do you want me to read it? And I said, no, don't read it. Because depending on what's in it, it could just destroy the last few days of this trip. And she said, Listen, if I read it, and there's something bad in it, I won't tell you. I said, well, if you don't tell me then I know there's something bad in it. And I said, listen, if it's bad, Evan is going to represent me, and we're going to go to federal court anyways. So, you might as well just tell me, and she said, okay. She opened the letter, and I heard the rustling. As you know, and a lot of you know from looking at the letter online, there's a lot of text before it gets to the good part, which is they're going to not revoke my license. So, I kept saying, well, what

does it say? What does it say? And then, I'm on FaceTime audio on a cruise in the Caribbean. I can't hear. And all I hear is, you know, nnt,nnt fine. No, no, no, fine. No, fine, no, fine. I'm like, there's no fine? And she's like, there's no fine. There's no revocation. You won. You won. You won. And she was screaming. And I said, okay, oh, I gotta go. I gotta text, Evan. And that's where we are. I didn't know you had already seen it and tried to email me.

**Evan Nappen 27:54**

I tried to email you, but you were out of contact, I guess. But that's great. No, it was. We were just as excited on our side, and we know that the right decision was made by them. And that we were able to not just save you, which makes me so happy, but also to defeat the political nature of what this really was. And really, that's what it was.

**Ira Levin 28:22**

This sets an important precedent, which is using the term willful and having to prove willful. I am certain, you know, there's probably someone out there who does stuff they should not be doing, and I get that. But when you put the word willful into it, it's a game changer. And I think that's really what made the difference. They knew they had no case. They couldn't prove that what I did was willful. And I think it also sets a bad precedent, because it's like trickle down politics. Biden declares law on FFLs because he can't stop people from buying guns. So, you get rid of the gun dealers. The state of New Jersey declares war on concealed carry because they lost that case with the Bruen case in New York. Now they've passed a bunch of laws that we're going to have to go fight.

**Evan Nappen 29:11**

That's right.

**Ira Levin 29:12**

ANJRPC, they have their work cut out for them. You know, I'm sure that they've already got legislation in the pipeline, ready to fire at that legislation. It's just a shame that politicians, on one side of the aisle versus the other side of the aisle, will vote on legislation they know is bad. They willfully do it. Knowing it's not constitutional. In support of their policies.

**Evan Nappen 29:37**

You know, that's a great point, Ira. The real willfulness is in these anti-Second Amendment, anti-gun politicians. They're the ones that are willfully trying to destroy and take away our rights, our guns and our freedoms. And that's a great point. You're also right. ANJRPC will be immediately, I am 100% confident, filing to fight the carry law, that so-called Carry Killer bill that passed. Any day now, within nine days of the passage, Murphy is going to sign it. Probably by the time you hear this show, he will have signed it. And I'm sure that the Association will have made its move to fight it in the courts. We have a great weapon to fight it with and that is the Bruen decision. Make sure you belong to your state association, so that you join in the fight with us. I would like to thank Ira for being on the show, Legend Firearms. I just want to remind you that gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens.

**Speaker 3** 31:02

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