**Know Your Rights Podcast Series**

**Episode 8: Guide Dogs**

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**Jacob:** Hello and welcome back to another episode of the CNIB's Know Your Rights podcast. My name is Jacob Charendoff, and today I'm joined by Jason Mitschele, a crown attorney and guide dog handler; Guy Carriere, a university student and guide dog handler, as well as Patti Ellis, a retired teacher and guide dog handler. And I have to say I'm really excited to learn a lot from our participants today about guide dogs, and their experience with knowing their rights. And Patti I'd love to start with you and know a little bit more about your story.

**Patti:** Well, first of all, hello. I've had a guide dog for 40 years I started with one at university, and went through as I became a high school English teacher, and then eventually married, and became a mom. And I had a guide dog all the way through, and I got this dog in 2016 and his name is Quincy. He's a golden retriever. A real powder puff, cream puff of a dog. Very fluffy and sweet and gentle. And yes. I have had many instances of discrimination and my attitude is always, "We can work this out. We can talk, and we can make things happen," because most of the time, people just don't understand. Or they think they understand a little, but there's some confusion. So usually, we can work it out.

I had an incident of 20 years ago that was resolved in court a week before my marriage, which was dealing with the church and the refusal for me and my dog to attend a baptismal ceremony. It had been the second time I'd had a problem with them. Then, the first time was at the marriage of the people who were now having the baptismal ceremony. The first time, I didn't do anything about it, but I think it's Oprah Winfrey that always said something. "Don't deal with it the first time, it'll come back and bite you in the butt." I guess I was forced to do something the second time.

My girlfriend, who was deaf, was marrying another young man who was deaf. And so, the family was obviously having the ceremony at their church. I was supposed to sit in the front row with my dog. I had a friend with me, and we were going to be looking after my girlfriend's two year old child, who was the ring bearer. Let's just say that, when we entered the church a little early for the ceremony, that was the wedding ceremony that I should have responded to and didn't, we were met with a woman shouting at us and waving a broom, and telling us that the big boss, she was trying to explain that God did not like animals in the church, that they were dirty. We checked it out with the priest beforehand. But once he spoke to this woman, she changed her mind. Rather, he changed his mind rather abruptly and said, "No, you can't bring the dog in." I didn't do anything about that, at that time, other than we managed to negotiate that I sat way out in one of the transepts of the church far away, and the woman stood in front of me, facing me with her arms out from her sides, as if she was warding my evil dog away. It was very embarrassing. However, I didn't do anything about that. It wasn't until the year later when my girlfriend said, "I want you to come to the baptism, and I want you to know two things. The good news is it's a different church. The bad news is same priest."

At that time, my husband, who was not my husband, it was our third date, I believe, we spent it at the police station, and he still married me. So, not so bad. We launched a complaint, and he pled not guilty because he said that his church was a special club and they could exclude people if they needed to on religious grounds, but it was a public building, and the judge did fine him.

**Jacob:** Okay. Wow. Sounds like you've been through the mill with this. Jason, I'm curious to know what your thoughts are regarding Patti's story, as a lawyer. Correct me if I'm wrong, you also use a guide dog. Is that correct?

**Jason:** I do. I'm currently on my fifth guide dog.

**Jacob:** Wow!

**Jason:** Yeah.

**Jacob:** What are the kind of legal obligations? Sounds like there was a verdict that came from it, but what are the obligations of an institution to accommodate guide dog for those who require them to function?

**Jason:** In terms of the legal framework, a public institution does have, and we've talked about this before, I know in the last podcast we did together, a duty to accommodate. And people with a guide do have to be treated equal and have equal access to anyone else in society. So essentially, that means

that a public facility or service provider, anyone providing a good and a service has to provide equal access to someone with their guide dog. So for example, there's a couple different ways we can see that. The main legislation is the Ontario Human Rights Code, and that gives everyone a legal remedy to basically sue as an individual, to take the public entity or the goods and service provider to court if they don't provide access for your guide dog. Essentially, they have duty to accommodate up until the point of what's called undue hardship, which is another legal term of ours, which basically means that the company has to show grave economic hardship to the point of almost bankruptcy or financial ruin, or some type of health and safety issue.

The human rights code is probably the main body, but there's also a little known law in Ontario from many years ago that's still on the books, called The Blind Person's Rights Act. That basically provides equal access to goods and services for people with guide dogs, and specifically guide dogs. Essentially, what that act allows one to do is go to the police, and let's say they're someone's being denied access to some public good or service. They can then call, the police can come, and actually lay a charge, and the person could be subject to fines if found guilty. But there are some loopholes; for example, if you're sharing a residence where you have a shared kitchen and or a bathroom. Let's say you're renting a room in a house, you're sharing a kitchen and or a bathroom. That homeowner could legally exclude your guide dog, because it's not considered a private dwelling, and you're living in their house. There's a slight loophole in the legislation. But other than that, if you're in a private dwelling like an apartment or a self-contained unit with its own kitchen and bathroom, your dog has to be accommodated.

Of course, the framework is the AODA. It basically does not give one the right to sue as an individual but can launch a complaint with the government entity if they're not being accommodated. And then, we go to an enforcement mechanism that could levy fines against the business or the entity. So essentially, I'd say that the main legislation is the human rights code, which has supremacy over any other legislation, unless another legislation says that it has supremacy. So example, the AODA states that if another legislation has better protection, then that legislation is the one that supersedes.

So, it's a hodgepodge of, I would say, three main acts, which is the Ontario Human Rights Code, the Blind Person's Rights Act, and the AODA, which collectively guarantees equal access for folks with guide dogs.

Another one I should mention, and I personally have used, is the city licensing commission. Restaurants, barbershops, etcetera, in the city of Toronto, for example, all have to be licensed through the city. If they're denying one's access with their guide dog, one could go to city bylaw enforcement, and essentially, that business could have their license suspended if they're not complying.

**Jacob:** Wow. I'm learning a lot about this episode. First of all Patti, thank you for sharing. I'll have some more questions in a few minutes for you. Jason, I just wanted to clarify a couple things that you've mentioned. We tend to talk a lot about undue hardship here, and seems to be the topi of every episode here. I think it's really important to keep reinforcing this, because it is such that you could actually lay charges on somebody for, is it specifically guide dogs? Are there other kind of residuals of that, that this act does cover?

**Jason:** It's a very short act, but it's specifically dealing with guide dogs and guide dog access. It basically allows for you to call the police, and for them to actually lay a charge against the individual who is failing to provide the access for the dog. I think Patti in-

**Patti:** I know it well.

**Jason:** So, I'm gonna turn that over to Patti because she's actually had personal experience with it.

**Jacob:** How did you know about this, to call the police in the first place?

**Patti:** Well, first of all, because I'm a high school teacher and because I'm interested in all kinds of different thing and have been involved with advocacy, with CNIB and other things, I've kept my ear to the ground. I'm part of Guide Dog Users of Canada organization, and we do a lot of advocacy and help with people, in addition to all the other things we d with education, et cetera, about guide dogs. But in my situation, I knew about the Blind Person's Rights Act probably originally through CNIB.

But when I went to the States to Leader Dog for the Blind, where I got my dog, all my dogs, when I received my graduation documentation with my ID, on the back of it was the Blind Person's Rights Act, which was very kind of them to do that. I also did make the charges in the situation in accordance with a violation of the Blind Person's Rights Act. But the bottom line on that one is you're not charging them. You are a witness for the Crown. The police charge them, if they choose to do so.

The first officers we saw the night with the church, it was a Sunday evening when I went in there, and he sort of, "Oh, well, you could come back tomorrow at business hours." And then, this other officer came running out of her office and said, "Did I hear correctly?" And then, she was so angry, even more angry than I was about it. And so, she helped us fill out the statement and got things going in that situation. That was 20 years ago. The most recent one, it was much more easy to get compliance from the police.

**Jacob:** I wanted to focus a little bit on Guy here, who's also had some issues regarding his guide dog. Welcome to the show, Guy. First of all, what's the name of your guide dog?

**Guy:** So my dog's name is Dixon. We've been together for four years now. He is my first guide dog. I'm not as well versed in the world of guide dogs as Jason and Patti, but definitely, I speak my mind when I need to.

**Jacob:** I understand that you had some issues with, I guess, an academic institution and a guide dog. Would you mind sharing a little bit about your experience with that, and how things progressed through that? I think it's a really interesting topic to dive into.

**Guy:** Yeah, for sure. And yeah, definitely. I'll break it down, just to put it into context, just so you understand how chaotic it really was. This was last September. I was in my third year of my degree, and I think it was about two weeks into the semester, fresh into September. I had gotten a call and I was scheduled to have some back surgery shortly thereafter. I think it was the last day I was there before I went off leave for my surgery, I received a phone call from the accessibility services office, which was really, really unnerving, because it was my advisor and she had me on speakerphone, and she was sitting in a room having a meeting with a lot of management and other people in that respect. And she says, "Yeah, we have a student that's here, and he has severe allergy and he is asthmatic, and he can't be in the same room as you and your dog." It was quite the bombshell.

At that point, basically I said, "Well, you know what?" I said, "I'm gonna be gone for several weeks." I said, "Let's reconvene then. We'll try and sort this out." So, I went off and I had my surgery and I had a successful recovery. Everything went great. And then, when went back to hit the books, the institution really didn't have anything in place at that point that that would really solve this issue of competing rights. What we essentially did for a period of time was we would alternate attendance. Now, given with COVID and everything like that, everybody's on Zoom. So, we were on Zoom before it was popular.

**Jacob:** You were a trailblazer.

**Guy:** So one day I would be in class, and then the next day he would be in class, and then the opposing person would chime in with Zoom. We did this for a number of months, with a lot of pleading for a better solution between ourselves and even our faculty. Because the technology just wasn't adequate. The microphone was built into the desk, into the computer in the room. If the professor wasn't standing directly beside the computer, you could hardly hear anything. If you had any communications from other students, you couldn't hear anything whatsoever. They made an attempt to relocate our class to a larger space.

They thought that with the attempt of putting in some air purification units and providing a larger space, that maybe we can coincide in the same room together. And after about 15 minutes, I believe he had to leave under obvious medical distress. So, that didn't work. I went back to Zoom, and we did that right through until Christmas break and at that point I was no longer getting any communication from management and people who were in charge of departments. They weren't responding to my requests or not. They weren't answering my questions. All communication had just stopped. At that point I said, "Okay, enough's enough." I took it to the public, with the other student's consent as well. We went to the local media to share our story, because at that point, the institution was just basically acting like a bully. And they at one point they did suggest to him, I don't remember how laid into the term it was, but he did receive one piece of information at one point where they basically said, "Well, maybe it would be in your best interest to change programs or to go to a different establishment."

We went to media, we broadcasted it in local papers. I'd even went on to CBC. As far as I remember, it was broadcast all across the country, which is great. It's not to shame anybody, but it's just to make everybody aware, because a lot of times, situations like this happen and nobody's aware of it.

Nobody knows this stuff goes on. That was the premise behind doing that. Shortly thereafter, we had a meeting with the university president, and lo and behold they came up with a much, much more feasible solution.

**Jacob:** Let me ask you a question here, and I'm not sure if you're able to disclose this. But just out of curiosity what was the accommodation?

**Guy:** In a nutshell, it was going to be very similar to how it was prior. The only difference was they had moved to a new classroom that had much, much more technology. This room was completely riddled with microphones and cameras, and we were supposed to again, rotate attendance. However, the other student was very, very gracious and he said that he didn't feel as though he needed to be in the room to be able to absorb what he needed. So, he opted to go into the opposing room on a full time level, to allow me and my dog to be in class with the rest of the class. Which was very nice of him.

**Jacob:** Yeah, very, very nice. I can only imagine how physically and emotionally exhausting that was to go through, so I'm glad that-

**Guy:** It definitely was.

**Jacob:** A positive outcome.

**Guy:** I just wanna make sure that this doesn't happen to anybody else.

**Jacob:** 100%. I mean, you said it really perfectly yourself. People don't know that things like this and other kind of issues within the scope of being properly accommodated and having equal and equity in our day to day lives is not always met. I think it's because there's a lack of understanding on how to properly accommodate people. So, getting this information out on a public basis for the blind and low vision community, and all other communities that have visible and invisible difference is crucial. But also to the general public, so that they know and understand and are educated about how to best support those who require any type of personalized support. Thank you all for this. I guess what I'm curious is Jason's thoughts on this circumstance. From an academic institution; we've spoken a lot about undue hardship, which is our favorite word on this episode. But is there anything that could have been done more expeditiously by the institution?

**Jason:** There's two things. It sounds like there's a lot of foot dragging on the institution's part, because obviously they were able to accommodate Guy and the other person without going bankrupt, or without having to shut their doors, or without having someone having serious health or safety issues. So obviously, that solution was always there. They had to just be pushed to do it. Now, the interesting thing about Guy's case is that the other way one can resolve disputes, which is the informal non-legal way, is go to the media. Arguably speaking, he got a much better result in a much quicker way than if he'd gone the legal route. Because as we all know, the legal route takes a lot of time. If you're going to the human rights tribunal, that can take years, and you may have to hire a lawyer and a lot of money.

**Patti:** Sometimes, you have to look at the optics.

**Jason:** Yeah. So, if you want-

**Patti:** And the optics were bad.

**Jason:** Sometimes, the route that Guy took is actually the road less traveled, in a way that, you're not gonna have to wait years after you've already graduated to get your solution after the fact. You can get your solution while you're still there being a student. So, I commend Guy for what he did. I think it was very smart. He can't wait two years later to go to court, and get an apology and some money. He has to be accommodated right then and there to take his class. It just goes to show that not all solutions are quote unquote strictly legal ones. There can be other ways to persuade those in power to do what we need them to do.

**Jacob:** Yeah, I think you said that very well Patti. It's definitely sometimes an optics issue that pushes the ball into the appropriate court.

**Patti:** That's what happened in my situation with a tow truck driver.

**Jacob:** Let's segue right into that, because it seems to be a natural flow into this, and I think our viewers and listeners are probably very curious, as to what the second story you have for us, Patti, is.

**Patti:** I had a brand new guide dog, so he was 16 months old and very bouncy and young, but extremely well-behaved dog. And in harness, night and day. When you put the dog in harness, he's got his little uniform on and he was focused. My husband and I were on our way home from a medical appointment in downtown Toronto. The traffic, as everybody knows who lives anywhere near the GTA, let alone in, it can be horrendous. And we were moving along at a very, very slow pace through what we refer to in our house as “the Don Valley parking lot on the Don Valley Parkway”. It was 34 degrees. We were in a very ancient Jetta. This is important to mention, with no air conditioning , with the dog at my feet. Suddenly, there was a sound, and it was basically that something was dragging on the road from underneath our vehicle, creating sparks. We got off the road very fast, and we called the roadside assistance company that we had a membership to, and they said they would send a tow truck driver out right away, and they did.

When the driver arrived, my husband got out of the car, went and spoke to him and the driver said, "Oh, no problem, I can pick you and your wife." He walked around the front of the car to speak to me. I had my door open, and he looked in and saw the dog and said, "Oh no, I can't take the dog though. The dog won't be able to come." I explained, I said, "See this? His harness is on him. He's a guide dog, and he's specially trained." I went through that, because I thought maybe perhaps, the man was afraid of dogs, because some people are. I said he'd ride on the floor. He's not interested in anybody but me. I said, "See, he's looking at me, those big brown eyes." Anyway, but he said, "Well, I can't take the dog." I said, "What's the problem?" And he said, "Because somebody else might get into my truck, somebody else who's driving it, or maybe a passenger, but they might be allergic." And I said, "That's considerate of you, but do you have an allergy?" And he said, "Oh, no, no, no, I don't, I don't have any allergies. He said, "I need to call the head office." That was his head office of his tow truck company, I guess. Not for the roadside assistance company.

He phoned his boss, and he was in his truck quite some time. And then he came back. In the meantime, a police car had come up behind us to keep us safe, because we were right up against some type of rail, so you couldn't really get out the car. We were in the car with the door partially open. At any rate, he came out from talking to his boss and he came around and he told my husband and the police officer, who by now was standing there, that he himself had an allergy. It was very, very bad allergy, he said. Very severe, and that he could not take the dog in his vehicle. The police officer came and said, "He can't take you." I said, "No, you missed the beginning of this." I said, "The man does not have an allergy. And we need to do something about it." And the police officer said, "First of all, he has to stay here while he calls you another tow truck." And we waited and waited. I said to the police officer, "Why don't we charge him?" The officer said, "I'd really love to do that, because this is not right. But in my 18 years, I've never come across this before, so I'm not sure what I would charge him under." And I said, "I just happen to have just the thing." So, I opened my wallet and pulled out my little card that I got from my Leader Dogs thing. I said, "Have a read." And he read it and he said, "Good, I'm on it." He went back to his car and the driver was charged.

We did eventually get a ride home. The next driver arrived. As I said, it was bad traffic, at 4:30 that afternoon. And we arrived at home by seven, because we were heading north from Toronto and everybody knows what that's like on 400. So, it was a long day. And the second tow truck driver was very helpful and got us a snack.

The story came out on the news.The man was charged. He did lose his job. I got a call from roadside assistance who called me and said, "Look, we're really sorry this happened. What can we do? We're thinking of making a video and educating all of our tow truck drivers on how to deal with persons with disabilities." They asked me if I would like to volunteer to do it, and I said, "I'd be very willing to help but I assume there'll be some remuneration because it's gonna take a fair bit of time," when they described what they would be doing. And that was indeed what happened.

I felt badly that the truck driver lost his job over it. His employers stood up for him at the beginning and said, "Tell this story." But when the optics got bad and the news was involved, they dumped him.

**Jacob:** I think that's such an interesting outcome from the story. Obviously, the situation with the tow truck driver and the organization, the tow company organization. Look, they've gotta do what they needed to do. Who knows what the conversation was in the truck that occurred, or anything like that. But to focus on something I think that's really great is the roadside assistance company took this as some sort of sign to say, "Hey, you know what? We really don't know how to handle this." And by this situation being brought to light, there was some sort of education and advocacy that could happen from that. And you got to be a part of that. I think that that's so important, and that's really what this whole series is about. Having the knowledge and the tenacity and the motivation to advocate for our rights starts with knowing what they are and what we can do about them.

These story of thinking outside of the box and going to the press. Patti, your involvement with laying charges and dealing with, and then making a movie about how to accommodate people with differences, I think is such an interesting spin on this. Really, we've focused a lot on the tribunal and how to file an application and things like that. But I think it's refreshing to know that there are other alternatives to consider and to be creative about getting what we need to thrive and survive, as people with difference. Because we're all individual. We all require personalized accommodation, whether it be at school, at work, or just life in general. So, I commend all of you for really helping to get these ideas and concepts out there, and I want to thank you for bringing your stories to the front, to share with other people who are listening or watching this series, because our purpose here is to provide people with the knowledge and power that you're not alone, and there are people who are paving the way so that you don't have to face any issues or problems in the future with your required accommodations. I guess before we wrap it up here; Jason, do you have any kind of remarks? I know that we've been really focusing on your legal expertise, but as a guide dog owner, do you have any closing thoughts or anything that you'd like to share with our viewers and listeners?

**Jason:** I do. I think I'll just reiterate: not every solution is necessarily quote unquote legal one. I think that advocacy doesn't just mean legal advocacy. It could mean education, it could mean educating someone who's not understanding why you need your guide dog, or not understanding what their legal obligations are. I think, first and foremost, we should try and educate the public as to what our rights are, and advocate for ourselves in this situation.

And only if that's not working, we have to go legal obviously. We have a couple of different tools in our toolkit available to us in Ontario to do that. But creativity's always a good thing.

**Patti:** I so agree with you, because it's not a question of where you say, "I have these rights, this is my dog. It's the law." You need to deal with people in a humane way. If I'd had a chance to talk to the guy with the allergy, but he didn't come near me after that. I would've said very gently, "You and I both know that you don't have an allergy. So what is really bothering you about the dog in the vehicle?" And that's what I would've liked to have done. I didn't mention the police officers, because he's not coming near you, he's staying in his car. In his truck.

**Jason:** You had no choice in that situation. But I think it's always best to try and work with the person to come up with-

**Patti:** Absolutely.

**Jason:** If you can. Because it makes everyone happy, versus going legal, which oftentimes, you're not gonna get a remedy until potentially months down the road when the situation's already happened. If you can diffuse it at the time, that's always better.

**Jacob**: Yeah, I 100% agree, and I think Guy once again has done such a wonderful job at finding a solution. Even the circumstances come back to square one. One thing I'd like to add as well here, and something that we haven't really spoken about, just as a closing remark, is I think it's important to find collaborative solutions. I think that's what you were alluding to, Jason, that if we can work on this together, obviously in any form of dispute, there's at least two sides. If we can come at this from a reasonable and appropriate manner like Guy did, I'm sure that the other student who had the allergies, it sounds like they were extremely cooperative and wanted to be collaborative in finding a solution. I think that's really important.

The name of this series is Know Your Rights, which is 100% a legal implication, and we always think human rights tribunals, this and that. It's all about legal and fighting, but I think fighting for our rights I can't remember who said it but advocacy is also about education. Through education, we can make possibly an even bigger impact, as opposed to going through a whole song and dance with legal proceeding.

Once again, thank you all so much for joining me on this episode. It's really important for myself to get this information out as someone who does have a visual impairment. It's my mission and passion to help people live their optimal life, and to be able to live life without limitation. And obviously, CNIB is an amazing resource for anybody who needs more information on this. Jason, you also had an institution that you're on the board for, and correct me if I'm wrong here, it's called ARCH is that correct?

**Jason:** Yeah, I looked at the list today of recommended resources. It's on there. It's called ARCH Disability Law Center. It's legal rights advocacy clinic. And they provide free 30-minute consultations with the public, who are experiencing disability rights issues. From there, they could take on the case. They might refer the person somewhere else, but that's a good start, and they've got some good online resources as well on their website. Good starting place.

**Jacob:** Yes.

**Patti:** May I add that, before you get to the legal stage, Guide Dog Users of Canada, gduc.ca, the website address, I'm on the board of that organization. Talk to us, get on our friends list and if you have an issue with our guide dog and someone talk to us because there are thousands of years altogether with our membership of guide dog work and people have very creative solutions, most of which do not involve the law. You don't have to get there, then go that route.

**Jason:** The legal is, with most things in life, I'd say, as a lawyer, I'll be honest about this, I think the legal route should always be the last resort, because it's a zero sum game. Whereas if you can work something out collaboratively, it could be a win-win situation, which is better for everybody, and you get an immediate solution, versus months or years down the road.

**Patti:** Yeah.

**Jacob:** That sounds like a win-win win to me. Guys, we'll include those links to add the aforementioned resource for you guys in the description somewhere around this podcast. As always, guys, it's important to know your rights, and this is all about paving the way for change. So until the next time, we'll see you then.

**Narrator:** For more CNIB Foundationpodcasts, visit cnib.ca/podcasts.