

# ANTONIO CALDARONE

## The Labor Lawyer Who Knows Hospitality

by Ed Finkel

It's not adding extra cheese to say that Antonio Caldarone, a labor and employment partner with Laner Muchin Ltd., grew up in the restaurant business.

His father, grandfather and uncles founded Palermo's Pizza near Midway Airport in the late 1960s, and Caldarone, 38, did everything from bussing tables to taking orders over the phone during his teenage years. He later helped to open a location in suburban Chicago in the early 2000s.

While working at the restaurant by day and attending law school by night, Caldarone handled his first labor and employment matter, which proved to be a turning point in his career and life.

"An employee made a (discrimination) claim against the business. Being on the inside, seeing what it is to operate and run a business, and facing from my perspective somewhat of a frivolous claim—that really impacted me," he says.

"Long story short, this was the experience that made me say, 'I want to do employment law.'"

During his 14 years as an attorney, the first three at Ungaretti & Harris (now Nixon Peabody) and the remainder at Laner Muchin, Caldarone has focused primarily on the restaurant and hospitality business, although his labor and employment clients run the gamut of other types of industries. He's handled clients from mom-and-pop restaurants like his family runs on up to major chains with locations nationwide. Matters have ranged from one-off disputes to major class actions.

### NOT ALWAYS ABOUT DOLLARS AND CENTS

Often, something other than the money involved makes cases memorable for Caldarone. One that made an impact on him—perhaps because the client reminded him of his own family business—involved a proprietor of three restaurants who was facing its first legal claim in 40 years of business. It was a wage claim that could have put them out of business.

"It would have destroyed them," Caldarone says. "It was one employee, but it could



have been large exposure. I was able to get it resolved—and it's not so much the settlement itself, it's the closure it brought them. A more sophisticated company wouldn't think twice about it, but it took an unbelievable (psychological) toll on them."

The case was litigated for a year before it was resolved, he says, and "they were agonizing every day."

"You had to walk them through the process. I got the case resolved for something they could afford. Let's be honest. At the end of the day, we're only talking money. But it's the move-on-with-your-life, those intangibles—getting people to stop thinking about it and keeping it from consuming their lives."

Although not necessarily a typical type of matter for Caldarone, among the more urgent situations he has faced were a couple of instances where former employees of Gibsons Restaurant Group, a longtime client, had made threats against people in the corporate office.

In one case, Caldarone helped the employer get a workplace restraining order on a moment's notice. In the second, Caldarone

happened to be out of town.

"He got me a colleague of his within 15 minutes," says Becky Brzeczek, vice president of human resources. The colleague got a similar restraining order.

"I picked up the phone and said, 'We've got to do something about this. It's escalated out of control,'" she says of the case Caldarone handled himself.

"I talked to him over the weekend, and we had things filed. He worked probably overnight so we could go to court in the morning and get a temporary restraining order filed."

In addition to thinking quickly on his feet and peacefully resolving the situation, Caldarone calmly and honestly walked Brzeczek through the scenario and put her personally at ease.

"He was supportive and really genuine," she says. "He said, 'I know this is scary. We're going to do what we need to do.'"

The second time, when a colleague took care of the matter, Caldarone checked in about once every 24 hours to make sure all was going well, she adds.

Most of Caldarone's cases involve wage-hour claims. Jim Distasio, president of M+J Asphalt and Paving, a Chicago-based company with hundreds of employees, remembers that Caldarone took on a case in which three employees filed a class action lawsuit claiming they should have been paid more hours—yet later admitted in a deposition that they stole time.

With Caldarone's help, M+J ultimately worked through a 13-hour mediation and came to a settlement, Distasio says. "Instead of spending hundreds of thousands of dollars to fight this, he did a good job of getting us to a solution," he says.

### TAKING CARE OF BUSINESSES

When Caldarone graduated from Chicago-Kent College of Law in 2005, he already knew he wanted to practice labor and employment law. Although Ungaretti & Harris handled more general commercial litigation, and Caldarone was not technically assigned to the labor and employment group, he kept seeking out partners in that practice area.

"I filled (my docket) up with those cases because it was what I wanted to do," he says. "I loved it."

He left for Laner Muchin for two reasons. First, as a boutique labor and employment firm with more than 40 attorneys, Laner covers the gamut of issues in the practice area in a way that his former firm did not. Second, Caldarone met his wife, Hallie Diethelm Caldarone, at Ungaretti, and as a more senior attorney, she became partner shortly after they started dating.

This created "an ironic, do as I say, not as I do" scenario for two labor and employment attorneys in the same firm, Caldarone notes.

They both ended up leaving the firm, and Antonio Caldarone found his niche at Laner Muchin, where he made partner in 2013. In addition to wage-hour disputes, his practice includes counseling employers on a myriad of employee issues, including workplace investigations and navigating tricky disability accommodations. He developed extensive training programs for management ranging from best practices to minimizing risks of employment claims to preventing and addressing all types of harassment to staving off disputes before they happen.

Caldarone has represented clients ranging from as few as 50 employees to as many as 5,000 nationwide, with widely varying sophistication when it comes to litigation. He's enjoyed a range of successes: victories at trial and arbitration, settlements in the low six figures when clients were facing millions in potential liability, a summary judgment dismissing an entire case because Caldarone used a forensic

expert to show evidence was fabricated.

"My successes are defined by the outcome I achieve for my client," he says. "I became a lawyer because I like solving problems. Of course, I will not solve every problem, but I am fortunate that clients put their faith in me to handle some of the most difficult matters for them."

Caldarone starts by visiting the business and taking the time to learn as much as he possibly can about the operational details, such as who started the business and how, where it's been, where it's going, who the clients or customers are, what the culture is like, and how a lawsuit or other matter will impact relationships.

"I cannot be successful in representing a client without knowing every aspect of the business and how the lawsuit will impact the business in every way," he says.

Litigation is the least efficient method of resolving a dispute, costly both in terms of money and the impact on operations, Caldarone says. But sometimes, unfortunately, it's the only option.

**“I had a different upbringing than most people, running around in the kitchen and dining room of a restaurant.”**

"Most of my cases are class actions, so a combination of attorneys' fees and possible liability can be substantial, even for large businesses," he says.

### RELATIONSHIPS MATTER

Caldarone's success has come partly due to relationships he's built on the plaintiff's side of the labor and employment bar.

"I often litigate against the same attorneys, sometimes with multiple cases involving different clients at the same time," he says. "While I vigorously represent my clients' interests, I believe you can do so without getting personal. I cannot tell you how many times I have leveraged relationships with opposing counsel to obtain good outcomes."

That can mean resolving a discovery dispute that would otherwise involve costly motion practice or negotiating both monetary and non-monetary settlement terms, Caldarone says.

"Opposing counsel know my word is my reputation," he says. "For example, when I make a representation of a client's inability to pay a substantial judgment or settlement, or request installment payments, they often trust my word without demanding financials," which privately held businesses are especially

reluctant to disclose.

In addition to the technical knowledge he's gained from law school and professional experience, Caldarone understands the human side of labor and employment disputes.

"People don't understand the sacrifices and risks and debts made by business owners. Owners place their trust in people," he says. "It's not all about the black letter of the law. A dispute with an employee takes it to a different level than a business-to-business dispute. There are emotions. There's a feeling of, 'I've taken care of you.' And the employee feels like they've given hard work to the company, and now they're not appreciated."

Employment claims are not like typical business claims in that they arise from a particular situation around pay, discipline, termination or something in the work environment, Caldarone says.

"I have the benefit of seeing the employer's side, but I also have to understand where the employee is coming from," he says. "As much as the industry changes over time, the bottom line of how restaurants operate, the interaction between co-workers and subordinates, the dynamics and the politics of it all, and the personality conflicts really haven't changed."

### SETTING THE TABLE

Caldarone first learned about dynamics, politics and personality conflicts during his childhood in suburban Orland Park. As a child of Sicilian immigrants whose father's education ended at fifth grade and mother's at high school, Caldarone was one of the first in his family to attend college, much less law school.

"I had a different upbringing than most people, running around in the kitchen and dining room of a restaurant probably until I could stay home alone, at age 13 or 14," he says. "I was raised collectively by my family and the employees there."

In fact, Caldarone considered the employees family, as did his parents, who once invited all 50 or so employees to attend his sister's wedding.

Although Caldarone's parents had little formal education, it was important to them. They told him, "The business is here for you, but go out and get your education." He did so at DePaul University, the only college to which he applied. Caldarone says he didn't get much guidance on applying to college.

The idea of becoming a lawyer had entered his consciousness relatively early in childhood, so Chicago-Kent College of Law became the logical next step.

"I liked solving other people's problems, or helping them," he says. "In an Italian family, there are a lot of disagreements. There are a lot of animated discussions. I always found myself

as a teenager at the dinner table mediating disputes. I liked the idea that here's a set of rules and everyone plays by them. I liked the structure the law provides—the forum where people address their disputes.”

Caldarone became more heavily involved in running his family's business as a junior in college, after his father passed away in a car accident in March 2001.

“It really changed the course of my life,” he says. “I moved back home to finish college and help my family run the restaurant. It was everything from making sausage to running the payroll.” And, eventually, when he reached law school, it was handling that employee dispute that turned him toward labor and employment law.

Today, Caldarone has 8-year-old twins, and he coaches his son's little league team. “That's important to me because my dad was never able to do things like that for me,” he says.

After spending teenage summers in a Sicilian village of 3,000 people at a house owned by his parents, Caldarone is completely fluent in Italian. He brought his wife there on their honeymoon, where they had a post-wedding ceremony in 2008 for family and friends. He's been back twice more but hasn't taken his kids—yet.

Caldarone is also a diehard Chicago White Sox fan who took his wife to a game on their first date.

#### CLIENTS, COLLEAGUES FEEL HOSPITALITY

Colleagues and clients of Caldarone attest to both his legal and personal skills. Rob Bernstein, a partner at Laner Muchin who was Caldarone's assigned mentor when he first joined the firm, says he's proven himself in forging strong relationships with clients and dealing with myriad personalities, philosophies

and industries.

“He knows the hospitality industry inside and out, but he's also proven himself well beyond that,” Bernstein says. “Clients I've been involved with have loved working with him, uniformly. He's shown genuine care in getting to know their respective businesses and using that to his advantage in servicing the client from a legal standpoint.”

About 60% to 70% of Caldarone's work is employment litigation, about 90% of which is defending companies against wage and hour lawsuits, Bernstein says.

“He's developed a real niche with this wage and hour practice in terms of overtime claims, misclassification claims, and independent contractor issues, both on a class and individual basis,” he says. “He's done a wonderful job on behalf of the firm in that area.”

In also handling counseling and training of managers and employees, Caldarone has demonstrated a breadth of skills and knowledge, Bernstein says. “He's shown himself to have diverse abilities,” he says. “He does the preventive work, and then in the unfortunate event that a client gets sued, he has handled all types of litigation matters.”

Among those clients is Kristen Zagozdon, vice president of human resources at Cooper's Hawk Winery & Restaurants, a company with over 30 locations and 3,000 employees nationwide.

“He does a nice job of balancing the business and the individual perspective, as you're working through employee relations,” she says. “And he really understands restaurants because he grew up in that environment. A lot of people understand it academically, from studying it, but he's stood in the dish pit and washed dishes, and he understands the pressures of running a shift and what happens

if somebody doesn't show up.”

That second-nature knowledge of the business paired with legal skills makes Caldarone especially impactful, Zagozdon says. “I find most valuable his ability to take the legal concepts and help us to filter them down into our day-to-day practices,” she says. “He walks us through how we fit it into our day-to-day routines and be compliant. It comes back to his deep understanding of the law and how to marry those two things.”

Gibsons Restaurant Group has had a very similar experience, Brzeczek says. Caldarone understands both the business and legal side, how to handle litigation and how to treat managers to avoid it. And he brings a combination of integrity, thoughtfulness and execution.

“He says, ‘This is the law, this is your practical challenge, let's find a solution,’” she says. “He prepares thoroughly for depositions, and he's respectful in his questioning while still getting to the heart of the matter. He's not judging them. He just needs facts. He's very good at using his industry knowledge to put people at ease and give them the truth.”

Caldarone's skills and abilities have applied well beyond the restaurant and hospitality businesses. Barrett Hatches, CEO of Chicago Family Health Center, which has a string of clinics with over 150 employees that provide services to underserved areas of Chicago, has been in his role for 5½ years and met Caldarone almost immediately during union negotiations.

“I enjoy his style—tough, firm, but very focused in a customer service sort of way,” Hatches says. “I've dealt with labor unions my entire career. I stack him up with the best in terms of his knowledge of contracts, his willingness to listen to the position of the organization, and my vision, and figure out from a labor perspective what would be best for that vision.”

Hatches has found Caldarone to be a good listener to bounce ideas off. He helped the organization write contracts for providers that Chicago Family Health Center uses to this day. And he's been the lead representative in all grievances and arbitrations.

“My philosophy is consistent with his,” Hatches says. “I believe in treating people right. It's hard to have counsel that doesn't support that.”

Hatches always feels comfortable that Caldarone has guided the organization to the optimal outcome in a given situation, even if it's not 100% what he wanted.

“He has always been able to figure out the best solution, and not necessarily at the expense of the employee—and that takes balance,” he says. “I can't tell you a time I've been disappointed.” ■



Caldarone and wife Hallie with their twins at an Ohio State game