

John E. Selent

Partner

Louisville, KY

Nothing is more exciting for John than working closely with a client who's starting or growing a business. He relishes counseling business owners and watching as the ideas they've invested themselves in flourish into profitable entities with growing workforces that provide for their communities.

One of those clients was Bluegrass Cellular, who John represented for more than 20 years. "The relationship has been such that it really goes back to the trust and confidence that the firm is looking out for your business needs. The strength was with the relationship with John – he'd give legal and business perspective of our needs so we could make the decisions and move forward," said Ron Smith, former president and CEO of Bluegrass Cellular. "We stayed with Dinsmore because of that trust. We established a relationship that became a friendship. We would hold our yearly strategic planning meetings and invite John to our dinners in the evening because we wanted him there – he was a friend," Smith added.

A past member of Dinsmore's Board of Directors and current member of the firm's LGBTQ Affinity Group, John focuses his practice on administrative law and commercial litigation, with a special emphasis on telecommunications and public utility law. He frequently represents clients in regulatory and commercial disputes before state and federal courts, state public utility commissions, and other administrative agencies. He also provides counsel with respect to regulatory and general corporate matters arising in the conduct of commercial operations in the telecommunications, energy, and banking industries.

Services

- Litigation
- Antitrust & Trade Regulation
- Public Utilities Industry
- Banking & Financial Services
- Corporate & Transactional

Education

- University of Notre Dame Law School (J.D., 1980)

- Bellarmine College (B.A., 1977)

Bar Admissions

- Kentucky

Court Admissions

- U.S. Court of Appeals for the Sixth Circuit
- U.S. District Court for the Eastern District of Kentucky
- U.S. District Court for the Western District of Kentucky

Affiliations/Memberships

- American Bar Association
- Kentucky Bar Association
- Louisville Bar Association
- University of Louisville, Antitrust Law, adjunct professor
- Bellarmine University, Board of Overseers
- Urban Renewal Committee of the City of Louisville, past member and chairman
- GuardiaCare, past Board of Directors
- Kentucky Public Service Commission, Tariff Regulation Advisory Group
- Actors Theatre of Louisville, Board of Directors
- Louisville Bar Foundation, Board of Directors
- Electric Cooperative Bar Association
- Federal Communications Bar Association

Distinctions

- Peer Review Rated AV in *Martindale-Hubbell*
- *Best Lawyers®*
 - "Lawyer of the Year" in Louisville for Communications Law (2016; 2018; 2020)
 - "Lawyer of the Year" in Louisville for Administrative/Regulatory Law (2021)
 - Administrative, Regulatory and Communications Law
- Kentucky *Super Lawyers®*
- "Top Lawyers" by *Louisville Magazine* (2013, 2016)

Experience

Pre-Bid Due Diligence

Represented a bidder in connection with the pre-bid due diligence related to a major energy utility acquisition involving Kentucky, Tennessee, and Indiana legal issues. The ultimate value of the deal for the successful bidder was reported to be approximately \$9.5 billion. The work involved all aspects of public utility regulation and environmental law, as well as strategizing likely communications with major political stakeholders throughout all levels of state and local government. Notable areas of representation in this matter included issues involving:

- Regulatory approvals for change in ownership or control of utilities;
- Regulatory approvals for financing applications;
- Regulatory approvals for obtaining certificate of public convenience and necessity;
- Renewable energy contract review;
- PSC and OSHA complaints;
- Utility supply and vendor contracts;
- Utility tariffs;
- Litigation;
- Regulatory review of rate-affecting issues;
- Fuel Adjustment Clauses;
- Pollution Control Bond change in control;
- Cost recovery of capital expenditures for pollution control equipment and renewable energy projects;
- Environmental surcharges;
- Projecting future impact of greenhouse gas regulations;
- Title V air permits;
- Environmental contamination and compliance issues associated with ongoing operations;
- Disposal of coal combustion by-products;
- General environmental regulatory compliance;
- State and local taxation;
- Real estate and operating leases;
- Franchises, rights-of-way, permitting, planning and zoning, and eminent domain;
- Retail operations review;
- Wholesale electric supply agreements;
- Gas pipeline regulatory issues; and
- Legislative, policy, and strategic planning advice.

Smart Answers to Complicated Questions

Running a telecommunications company responsible for everything from tablets to cell towers means Bluegrass Cellular President and CEO Ron Smith often needs correct answers to complicated questions. And for 20 years, Dinsmore has been answering Smith's questions on topics ranging from labor and employment to government regulations to OSHA.

"Certainly over the years we've had top-notch services from Dinsmore and have really enjoyed the relationship," Smith said. "I don't know how we could do our business without them."

Bluegrass' services include mobile devices and accessories, talk and text plans, data plans, mobile apps, wireless Internet, and mobile Internet. Staying in business means keeping up with ever-changing government standards that affect everything from human resource issues to cell tower placement and function.

Smith said Dinsmore helps navigate these and other issues by explaining all sides of the matter and then detailing the logic of their counsel. Dinsmore's attorneys never provide Smith an answer without an adequate explanation.

"It's more about our education and our being able to make a good business decision," Smith said.

Smith also appreciates that Dinsmore has multiple attorneys working to ensure the success of his business.

"You develop a really good comfort that you're not dealing with just one individual, but you're dealing with a firm that's pretty deep," Smith said.

Sale of Telecommunication Company Assets

Dinsmore acted as lead counsel representing a closely-held, Kentucky-based telecommunications company in multiple multi-million dollar asset sales to various publicly-traded, international telecommunication companies.

Terminated a Trust and Removed all Restrictions Tied to a Historic Building

We represented the Kentucky Mansion Preservation Foundation, which was seeking to terminate the trust and end the restrictions tied to Helm Place. A designated landmark, Helm Place was once the home of Emilie Todd Helm, half-sister to first lady Mary Todd Lincoln, and the home had been left to the foundation in a trust. Originally the foundation had hoped to turn the structure into a museum, but that was no longer economically realistic. Our attorneys successfully obtained a termination of the trust, clearing the way for the potential sale of the property.

Access Reform (Telecommunications)

We represent 13 of Kentucky's 15 local rural exchange carriers (RLECs) in connection with the Kentucky Public Service Commission's ongoing administrative case regarding potential reforms to intrastate access charges, high cost support, and universal service. This representation is ongoing.

Certificate of Public Convenience and Necessity in Contested Case Involving Construction of Additional Water Supply Facilities

We represented our client, a large water company, in a heavily-contested case before the Kentucky Public Service Commission regarding a different large water utility's efforts to build a new water treatment plant. By presenting a reliable, cost-efficient alternative to the other water utility's proposal, our representation was successful in paving the way for fruitful discussions between our client and other new large potential customers.

Certified Territory Dispute (Electric)

We represented a large aluminum smelter before the Public Utilities Commission of Ohio in a territorial dispute with a large, multi-state electric utility and a small electric cooperative, both located in Ohio. Our client had previously been removed from the certified service area of a large, multi-state electric utility and into that of a smaller electric cooperative that would permit the client to purchase its electricity on the open market. When market conditions made the open-market purchase of electricity infeasible, we represented the client in a successful effort – spanning political and union lines – to rejoin the service territory of the large utility. As a result of these efforts, the client was able to resume its operations.

Dispute Over Jurisdictionality of Mobile to Landline Calls

When the Brandenburg Telephone Company needed Sprint to pay its access charges, it turned to Dinsmore. Sprint had been withholding millions of dollars in access charges billed to it pursuant to Brandenburg Telephone Company's filed and approved tariffs. Sprint claimed that although the tariff language jurisdictionalized access traffic as inter/intrastate on the basis of a juxtaposition of the called and calling party numbers, the advent of wireless telecommunications required jurisdictionalization based on the location of the wireless switch handling the traffic. Before the Franklin Circuit Court, Dinsmore successfully argued that the plain language and historical application of Brandenburg Telephone Company's tariff prevailed. As the Franklin Circuit Court agreed in reversing the Commission, any other outcome would have resulted in an impermissible violation of Brandenburg Telephone Company's constitutional due process rights. As a result of the reversal, the client will be able to recover a substantial amount of unpaid charges, and it establishes an important precedent for other wireline carriers across the Commonwealth.

Foreclosure Proceedings Involving Rental Properties

We represented the lender in a multi-million dollar commercial foreclosure proceeding involving several multi-family rental properties spread throughout several counties in Southwest Ohio. We were able to have a Receiver appointed over all of the properties, and the Receiver was able to sell all of the properties within nine months of the commencement of the foreclosure proceedings, resulting in a favorable outcome for our client.

In-House Counsel

We serve as the in-house legal department for Bluegrass Cellular, a commercial mobile radio service (CMRS or cellular) provider throughout Central Kentucky. We assist the client with a wide variety of needs, including negotiating and drafting customer service agreements, vendor agreements, roaming agreements and intercarrier agreements, as well as offering counsel on regulatory compliance, cell tower siting and construction, and other general litigation needs.

Kentuckiana Cellular, Inc. v. Bluegrass Cellular, Inc.

Dinsmore & Shohl represented the Defendant/Counterclaim Plaintiff, Bluegrass Cellular, in a matter involving claims of breach of contract and fraud. By working closely with the client we came to understand the subtleties of the relevant business relationships. This understanding allowed us to successfully defend a claim against our client and to then win a substantial verdict on our counterclaim. Kentuckiana's claim was dismissed on directed verdict and a jury awarded our client \$1 million.

Multiple Clients

Examples of Mr. Selent's experience include the following:

- Representing a large aluminum smelter in its efforts to re-enter the service territory of a large electric utility.
- Representing twelve ILECs in the negotiation and arbitration of ICAs with CMRS carriers.
- Representing an ILEC, under traditional rate of return regulation, in its efforts to obtain a rate increase.
- Representing an ILEC in its efforts to obtain access to the utility poles of an electric utility under rates, terms, and conditions identical to those available to cable television companies.
- Representing a wireless carrier in its efforts to obtain numerous CPCNs from local planning units and utility regulatory commissions.

- Representing a start-up company in its efforts to establish a wind farm for purposes of providing electricity for transport and sale.
- Representing a start-up company in its efforts to use landfill gas to produce electricity for transport and sale.
- Representing a water utility in its efforts to promote efficient solutions to a regional water crisis and discourage another water utility's plans to construct a new water treatment plant.
- Representing a CLEC in an interconnection arbitration to open effective competition in the 911/E911 services market in Kentucky.
- Reviewing, negotiating, and effectuating wireless license transfers.
- Representing 7 ILECs in a regulatory proceeding to determine whether a transit tariff is lawful.
- Representing a condominium association in an effort to compel appropriate service by a sewage utility.
- Representing manufacturing operations in securing electricity, gas, steam, and telecommunications services.
- Representing a CLEC before the United States Court of Appeals for the Sixth Circuit regarding the opt-in provision of the Telecommunications Act of 1996.
- Representing wireline and wireless carriers in their efforts to obtain eligible telecommunications carrier status.
- Counseling wireline and wireless carriers regarding regulatory compliance issues such as customer proprietary network information.
- Counseling a wireless carrier as it launches new products and services.
- Drafting legislation establishing alternative regulatory regime for small telephone utilities.