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Daily Journal: May I Have Another? Antitrust Immunity for Serial Petitioning

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O'Melveny antitrust counsel Stephen McIntyre authored this article discussing antitrust immunity and serial positioning. "The '*Noerr-Pennington* doctrine' says you can't be held liable under the antitrust laws for asking the government to do something -- even if it harms competition -- so long as your request is 'objectively reasonable,'" McIntyre wrote. "But what if you ask twice? The Courts of Appeals are divided on this question. A majority say that if a firm makes multiple anticompetitive 'petitions,' it may run afoul of the Sherman Act regardless of whether the petitions are well-founded. Two circuits, including most recently the 7th, hold that immunity applies to any and all objectively reasonable government petitions, without regard to number. This split may soon find its way to the Supreme Court."

Daily Journal subscribers can read the full article [here](#).