The new reality created by the COVID-19 pandemic presents a fresh set of challenges for litigants. For appellate litigation, the US Supreme Court has demonstrated that judicial proceedings can continue. Though very traditional, the Supreme Court has successfully adapted its procedures to accommodate present circumstances by allowing oral argument to be heard via teleconference. But unlike the Supreme Court, district courts have the added elements of juries and witnesses that must be considered on reopening. Given the significant differences between trial and appellate courts, the Supreme Court’s seemingly smooth transition to virtual judicial proceedings should not lull litigants into thinking that the virtual option is a sufficient substitute. In their article published by the Texas Lawyer, Eversheds Sutherland attorneys Ronald Zdrojeski, Kimberly Daily and Samantha Darnell discuss the myriad constitutional and due process issues that would arise from conducting criminal trials remotely and the practical concerns that litigants should consider as judicial operations resume, both virtually and in person.
Social Distancing a Litigant’s Rights: Court Reopening Considerations in the Age of COVID-19

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