

SEPARATE WRITINGS: THE FORM, FUNCTION & EFFECT OF SEPARATE OPINIONS

Course Number: 727-R01

Spring 2022 Syllabus

Antonin Scalia Law School at George Mason University

The Honorable Patrick R. Wyrick – Adjunct Professor
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Course Description and Learning Outcomes: This course is designed to help you understand judicial opinions other than majority opinions, i.e., concurrences, dissents, statements respecting, etc. The course will explain the motivations and purposes a judge might have in writing separately, the typical form of the various types of separate writings, and the functions and effects of such writings.

By the end of the course, you will be familiar with the various types of separate writings, will be able to explain the legal effects of such writings, and will understand the motivations and purposes a judge might have in writing separately, such that you will be prepared for a judicial clerkship or similar role where such knowledge is needed.

Reading materials: In lieu of textbooks, reading materials will consist of opinions, legal commentary, and excerpts from books. I have listed the readings for the first session. I will provide the reading materials for subsequent session no later than the Friday before the session.

Grading: Grades will be based on your classroom participation and final assignment. Your participation in class, which will include your presence, punctuality, preparedness, and willingness to engage, will account for 50% of your final grade. Your final assignment, which will be a take home writing assignment, will account for 50% of your final grade.

Class Logistics: We will meet via zoom for one hour each Wednesday. I endeavor to meet in person at least once on a date when I can travel to Arlington. I will provide ample advance notice so that you may plan accordingly.

Course Outline:

- **Session 1: January 19, 2022**
 - The Rule of Five and the voting menu
 - 6 Okla. Prac., Appellate Practice § 25:29

- 5 Okla. Prac., Appellate Practice § 14:133
 - 1 Ga. Proc. Court System and Types of Action § 1:40
 - APP FL-CLE 4-1 (§ 4.9 only)
- **Session 2: January 26, 2022**
 - Concurring opinions
- **Session 3: February 2, 2022**
 - Subspecies of concurring opinions
- **Session 4: February 9, 2022**
 - Dissenting opinions
- **Session 5: February 16, 2022**
 - Dissenting opinions continued
- **Session 6: February 23, 2022**
 - Opinions concurring in part, dissenting in part
- **Session 7: March 2, 2022**
 - Separate writings at the certiorari stage
- **Session 8: March 9, 2022**
 - “Statements respecting”
- **Session 9: March 23, 2022**
 - Plurality opinions
- **Session 10: March 30, 2022**
 - *Marks* and the “narrowest grounds” rule
- **Session 11: April 6, 2022**
 - Internal memoranda and intra-chambers decision-making
- **Session 12: April 13, 2022**
 - Circulations between chambers and negotiations with other judges
- **Session 13: April 20, 2022**
 - Wrap up and explanation of final assignment
- **Final Assignment Due: May 12, 2022**