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SUPREME COURT

March 30, 2025

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You are hereby notified that the Court has entered the following order:

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No. 2025AP647-OA      Kaul v. Musk

An emergency petition for leave to commence an original action, an emergency motion for temporary injunctive relief, and supporting documents having been filed on behalf of petitioner, Wisconsin Attorney General Josh Kaul; a response to the petition and motion, along with supporting documents, having been filed on behalf of respondents, Elon Musk and America PAC; a reply in support of the petition and the motion having been filed on behalf of petitioner; a surreply having been filed on behalf of respondents; and a motion for leave to file a nonparty brief amici curiae in support of the motion for temporary injunctive relief, with a proposed nonparty brief, having been filed on behalf of Mark Becker et al.; and all filings having been considered by the court;

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No. 2025AP647-OA

Kaul v. Musk

IT IS ORDERED that the motion for leave to file a nonparty brief amici curiae is granted, and the proposed brief is accepted for filing; and

IT IS FURTHER ORDERED that the reply and surreply are accepted for filing; and

IT IS FURTHER ORDERED that the petition for leave to commence an original action is denied; and

IT IS FURTHER ORDERED that the motion for temporary injunctive relief is denied as moot.

ANN WALSH BRADLEY, J., (*concurring*). Some on the court have supported a candidate in this election which may cause them to consider recusal. However, the rule of necessity overrides recusal in this instance.

The judicial doctrine that provides for the rule of necessity has long been recognized by both the United States Supreme Court and the Wisconsin Supreme Court. See United States v. Will, 449 U.S. 200, 212 (1980); State v. Houser, 122 Wis. 534, 100 N.W. 964 (1904). The rule indicates that a judge can sit on a case that may otherwise require recusal if recusal would prevent the case from being heard due to a lack of quorum. See Wis. Const. art. VII, § 4(1) (requiring a quorum of four justices for the conduct of the court's business); Atkins v. United States, 556 F.2d 1028, 1036 (Ct. Cl. 1977).

Accordingly, I respectfully concur.

I have been authorized to state that Justices REBECCA FRANK DALLET, JILL J. KAROFKY, and JANET C. PROTASIEWICZ join this concurrence.

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Samuel A. Christensen  
Clerk of Supreme Court