

Exhibit B

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

DAVID GRIESEMER, LAURA ANN
HARRIS, JULIANN MAGUIRE, and
JL JOSHUA SMITH, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

KIA AMERICA, INC.,

Defendant.

Case No. 8:22-cv-01545-FWS-JDEx

**[PROPOSED] ORDER
GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

1 WHEREAS, pursuant to Fed. R. Civ. P. (“Rule”) 23(a), 23(b)(3), and 23(e), the
2 Parties seek entry of an order: preliminarily approving the nationwide class action
3 Settlement of this Action (“Settlement”) pursuant to the terms and provisions of the
4 Settlement Agreement, with attached exhibits (“Settlement Agreement”); preliminarily
5 certifying the Settlement Class for settlement purposes only; directing notice to the
6 Settlement Class pursuant to the Parties’ proposed Class Notice set forth in the Settlement
7 Agreement; preliminarily appointing class representatives for the Settlement Class, Class
8 Counsel, and the Claims Administrator; directing the timing and procedures for any
9 objections to, and requests for exclusion from, the Settlement; setting forth other
10 procedures, filings, and deadlines; and scheduling the Final Fairness Hearing; and

11 WHEREAS, this Court has read and carefully considered the Settlement
12 Agreement and its exhibits, Plaintiffs’ Unopposed Motion for Preliminary Approval of
13 Class Action Settlement, and the applicable law;

14 NOW, IT IS HEREBY ORDERED THAT:

15 1. This Order incorporates by reference the definitions in the Settlement
16 Agreement, and all terms used in this Order shall have the same meanings as set forth in
17 the Settlement Agreement.

18 2. The Court has jurisdiction over this litigation, Plaintiffs, all Settlement Class
19 Members, Defendant Kia, and any party to any agreement that is part of or related to the
20 Settlement.

21 3. The Court preliminarily approves the Settlement Agreement, and its
22 Settlement terms, as fair, reasonable, and adequate under Rule 23 of the Federal Rules of
23 Civil Procedure, subject to further consideration at the Final Fairness Hearing.

24 4. The Court preliminarily finds that the proceedings that occurred before the
25 Parties entered into the Settlement Agreement afforded counsel the opportunity to
26 adequately assess the claims and defenses in the Action, the positions, strengths,
27 weaknesses, risks, and benefits to each party, and as such, to negotiate a Settlement
28 Agreement that is fair, reasonable, and adequate and reflects those considerations.

1 5. The Court also preliminarily finds that the Settlement Agreement has been
2 reached following vigorous and intensive arm’s-length negotiations of disputed claims,
3 including two mediation sessions with the assistance of an experienced third-party neutral
4 mediator, and that the proposed Settlement is not the result of any collusion.

5 6. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court
6 preliminarily certifies, for settlement purposes only, the following Settlement Class:

7 All residents of the United States and the District of Columbia
8 (excluding U.S. territories), who (1) presently own or lease a
9 Class Vehicle or (2) who previously owned or leased a Class
 Vehicle.

10 “Class Vehicles” are defined as: certain 2016-2017 Kia Optima and all 2017 Kia Sportage
11 vehicles and are identifiable by their Vehicle Identification Number (“VIN”) to be
12 provided by Kia to the Claims Administrator. Excluded from the Class are (1) Kia
13 America, Inc. (formerly Kia Motors America, Inc.), its subsidiaries and affiliates,
14 officers, and directors; (2) insurers of the Class Vehicles; (3) all persons or entities
15 claiming to be subrogated to the rights of Class Members; (4) issuers or providers of
16 extended vehicle warranties or providers of extended service contracts; (5) individuals
17 and/or entities who validly and timely opt-out of the Settlement; (6) consumers or
18 businesses that have purchased Class Vehicles deemed a total loss (i.e. salvage) (subject
19 to verification through Carfax or other means); (7) current and former owners of a Class
20 Vehicle that previously have released their claims against Kia America, Inc. (formerly
21 Kia Motors America, Inc.) with respect to the issues raised in the Litigation; (8)
22 individuals or entities that have purchased and/or leased Class Vehicles as “fleet” vehicles
23 (i.e., rentals or company vehicles); (9) any judge to whom this matter is or may be
24 assigned, and his or her immediate family (spouse, domestic partner, or children); and
25 (10) dealerships (i.e. any authorized, unauthorized, or third-party seller of new or used
26 Kia vehicles) that owned the cars during the time it needed a Window Regulator Repair.

27 7. The Court preliminarily appoints Andrew W. Ferich and Sarper Unal of
28 Ahdoot & Wolfson, PC, and Ben Barnow and Anthony L. Parkhill of Barnow and

1 Associates, P.C. as Class Counsel for the Settlement Class. The Court finds that the
2 requirements of Rule 23(g) are satisfied by these appointments. The Court preliminarily
3 appoints, pursuant to Rule 23(a), Plaintiffs David Griesemer, Laura Ann Harris, Juliann
4 Maguire, and JL Joshua Smith, as Class Representatives. The Court finds that these
5 Plaintiffs will fairly and adequately represent the interests of the Class.

6 8. The Court preliminarily appoints Kroll Settlement Administration, LLC as
7 the Claims Administrator.

8 9. The Court preliminarily finds, solely for purposes of the Settlement, that the
9 criteria under Rule 23(a)-(b) for certification of the Settlement Class are satisfied, in that:
10 (a) the Settlement Class is so numerous that joinder of all Settlement Class Members in
11 the Action is impracticable; (b) there are questions of law and fact common to the
12 Settlement Class that predominate over individual questions; (c) the claims of the Class
13 Representatives are typical of the claims of the Settlement Class; (d) the Class
14 Representatives and Class Counsel have and will continue to fairly and adequately
15 represent and protect the interests of the Settlement Class; and (e) a class action is superior
16 to all other available methods for the fair and efficient adjudication of the controversy.

17 10. The Court finds, pursuant to Rule 23(e)(1)(B), that giving notice to the class
18 is justified and appropriate because the Court will likely be able to approve the Settlement
19 as fair, reasonable, and adequate, and certify the class for purposes of judgment on the
20 proposed Settlement, pursuant to Rule 23(e)(1)(b)(i) and (ii). In addition, the Court finds,
21 pursuant to Rule 23(e)(2)(A)-(D), that the Class Representatives and Class Counsel have
22 adequately represented the Class, the Settlement was negotiated at arm's length, the relief
23 provided for the Class is adequate, and the proposal herein treats Class Members
24 equitably relative to each other.

25 11. The Court has carefully reviewed and hereby approves the Parties' Class
26 Notice as set forth in the Settlement Agreement. The Court approves the form and content
27 of the Class Notices, including the E-mail Notice (Exhibit B to the Settlement
28 Agreement), where e-mail is available, and Postcard Notice (in the alternative where no

1 e-mail is available) (Exhibit C to the Settlement Agreement) which shall be provided to
2 Class Members via First Class Mail in cases where email is not available, but in no event
3 more than 75 days after the entry of this Order, and the long form Class Notice to be
4 available on the Settlement Website (Exhibit D to the Settlement Agreement). For
5 purposes of identifying the requisite names and addresses, Kia will provide all available
6 names and addresses of Class Vehicle owners, along with Class Vehicle VINs, to S&P
7 Global (or similar third-party entity), who shall be authorized to use that information to
8 obtain the names and most current addresses of current and former Class Vehicle owners
9 and lessees through state agencies. Prior to disseminating Notice, the Claims
10 Administrator shall conduct an address search through the U.S. Postal Service's National
11 Change of Address database to update the address information for current and former
12 Class Vehicle owners and lessees. If any Class Notice is returned as undeliverable, the
13 Claims Administrator will make a reasonable effort to resend them if an updated mailing
14 address is provided or available. In addition, the Claims Administrator shall create,
15 launch, and maintain the Settlement Website from date the Class Notice is mailed through
16 90 days after the Approved Claim Payment Date which will contain: (1) instructions on
17 how to file a Claim; (2) instructions on how to contact the Claims Administrator for
18 assistance with their Claims; (3) instructions on how to contact Class Counsel for
19 assistance; (4) a copy of the Class Notice, Claim Form, and the Settlement Agreement;
20 (5) any orders issued by the Court approving or disapproving of the proposed Settlement;
21 and (6) any other information Kia and Class Counsel mutually agree is relevant for
22 dissemination to Class Members regarding the Settlement. Kia, through the Claims
23 Administrator, will also establish an 800 number from the date the Class Notice is mailed
24 through 90 days after the Approved Claim Payment Date with pre-recorded messages
25 that address commonly asked settlement questions. Further, on or before the Notice Date,
26 the Claims Administrator shall create, maintain, and actively monitor a settlement e-mail
27 inbox, the address for which shall be posted clearly on the Settlement Website. The
28 Claims Administrator will be expected to respond to Class Member inquiries about the

1 Settlement. Any questions or inquiries that the Claims Administrator is incapable of
2 responding to will be directed to Class Counsel and Defendant’s Counsel. The Court
3 approves the Claim Form (Exhibit A to the Settlement Agreement) which will be made
4 available on said Settlement Website.

5 12. The Court finds that the Parties’ Class Notice satisfies Rule 23, due process,
6 and constitutes the best notice practicable under the circumstances. The Class Notice is
7 reasonably calculated to apprise the Settlement Class of the pendency of the Action; the
8 certification of the Settlement Class for settlement purposes only; the terms of the
9 Settlement, its benefits, and the release of claims; the Settlement Class Members’ rights,
10 including the right to and the deadlines and procedures for requesting exclusion from the
11 Settlement or objecting to the Settlement; Class Counsel’s Fee and Expense application
12 and the application for Class Representative Service Awards; the deadline, procedure,
13 and requirements for submitting a Claim for reimbursement of Out-of-Pocket Costs for a
14 Window Regulator Repair, or a Dealer Service Card pursuant to the Settlement terms;
15 the time, place, and right to appear at the Final Fairness Hearing; and other pertinent
16 information.

17 13. The Court further finds that all the notices are written in simple terminology
18 and are readily understandable by Settlement Class Members. The date and time of the
19 Final Fairness Hearing shall be included in all notices before they are disseminated. The
20 Parties, by agreement, may revise the notices in ways that are appropriate to update those
21 notices for purposes of accuracy and clarity without further approval of this Court, and
22 may adjust the layout of those notices for efficient electronic presentation and mailing.
23 No Settlement Class Member shall be relieved from the terms of the proposed Settlement,
24 including the releases provided for therein, based solely upon the contention that such
25 Settlement Class Member failed to receive adequate or actual notice.

26 14. Accordingly, the Court approves, and directs the implementation of, the
27 Class Notice pursuant to the terms of the Settlement Agreement.

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1 15. The Claims Administrator is directed to perform all settlement
2 administration duties set forth in, and pursuant to the terms and time periods of, the
3 Settlement Agreement, including providing notice pursuant to the Class Action Fairness
4 Act, 28 U.S.C. § 1715, implementing and maintaining the Settlement Website,
5 disseminating the Class Notice, the processing, review and determination of timely
6 submitted and proper Claims under the Settlement terms, and the submission of any
7 declarations and other materials to counsel and the Court, as well as any other duties
8 required under the Settlement Agreement.

9 16. The Departments of Motor Vehicles within the United States are ordered to
10 provide approval to S&P Global, or any other company so retained by the Parties and/or
11 the Claims Administrator, to release the names, addresses, and other necessary contact
12 information of Settlement Class Members associated with the titles of the VINs for the
13 Settlement Class Vehicles for the purposes of disseminating the Class Notice to the
14 Settlement Class Members. S&P Global, or any other company so retained, is ordered to
15 license, pursuant to agreement between Defendant and S&P Global or such other
16 company, and/or the Claims Administrator and S&P Global or such other company, the
17 Settlement Class Members' contact information to the Claims Administrator and/or
18 Defendant solely for the use of providing Class Notice and for no other purpose.

19 17. Class Counsel and Defendant's Counsel are hereby authorized to use all
20 reasonable procedures in connection with approval and administration of the Settlement
21 that are not materially inconsistent with this Order or the Settlement Agreement,
22 including making, without further approval of the Court, non-material changes to the
23 form or content of the Long Form Notice, E-Mail Notice, Postcard Notice, the Claim
24 Form, and other exhibits that they jointly agree are reasonable or necessary.

25 18. Upon application by the Parties, the deadlines set forth in this Order may be
26 extended by order of the Court, without further notice to the Settlement Class. Settlement
27 Class Members must check the Settlement Website regularly for updates and further
28 details regarding extensions of these deadlines. The Court reserves the right to adjourn or

1 continue the Final Fairness Hearing, and/or to extend the deadlines set forth in this Order,
2 without further notice of any kind to the Settlement Class.

3 19. Any Class Member may submit a Request for Exclusion by mailing or
4 delivering such request to the Claims Administrator at an address designated by the
5 Claims Administrator, which will be set forth in the Class Notice. To be valid, any
6 Request for Exclusion must be postmarked or delivered by the Opt-Out Deadline. Any
7 Request for Exclusion shall (i) state the Class Member's full name and current address,
8 (ii) provide the model year and VIN of their Class Vehicle(s) and the date(s) of purchase
9 or lease, and (iii) specifically state his or her desire to be excluded from the Settlement
10 and from the Class. Failure to comply with these requirements and to timely submit the
11 Request for Exclusion will result in the Class Member being bound by the terms of the
12 Settlement.

13 20. The Claims Administrator will share information regarding Class Member
14 exclusion requests with Class Counsel and Defendant's Counsel on a weekly basis until
15 the deadline for a Request for Exclusion and upon reasonable request thereafter. Any
16 Class Member who submits a timely and valid Request for Exclusion may not file an
17 objection to the Settlement, shall not be entitled to submit a Claim, and shall be deemed
18 to have waived any rights or benefits under this Settlement Agreement. Requests for
19 Exclusion will be permitted by individual Class Members only; proposed group or mass
20 opt-outs will be deemed to be submitted on behalf of only the individual Class Member
21 signing the form.

22 21. No later than 14 days following the Opt-Out Deadline, the Claims
23 Administrator shall provide Class Counsel and Defendant's Counsel with a list
24 identifying all Class Members who submitted a Request for Exclusion, together with
25 copies of the Requests for Exclusion, and a declaration attesting to the completeness and
26 accuracy thereof. This list shall be included as an exhibit to the declaration and to the
27 proposed Final Judgment and Order to be submitted with the motion for final approval.
28 Prior to the Final Approval Hearing, the Claims Administrator shall let the Parties know

1 if any late processed but timely additional Requests for Exclusion were received, and
2 provide an updated opt-out list (if necessary) 5 days prior to the Final Approval Hearing,
3 so that the Parties can provide an up-to-date and final opt-out list to the Court at the Final
4 Approval Hearing.

5 22. Any Class Member who wishes to submit an objection to the Settlement and
6 for it to be considered, must file a written notice of objection by the Objection Deadline,
7 and serve it on Defendant’s Counsel and Class Counsel. If such person intends to appear
8 at the Final Approval Hearing, they must also file a notice of intent to appear. Class
9 Members’ objections, along with any documents or information required by this
10 paragraph that the objecting Class Member intends to present to the Court, must be: (1)
11 either filed electronically with the Court or be sent by mail to the Clerk of the Court at
12 the address below and (2) sent to both Defendant’s Counsel and Class Counsel at the
13 following addresses, which also will be set forth in the Class Notice:

14 **Defendant’s Counsel**

15 Lewis Brisbois Bisgaard & Smith LLP
16 Attn: Eric Y. Kizirian, Esq.
17 *Le Beau et al. v. Kia America, Inc.*
18 633 W. 5th Street, Suite 4000
Los Angeles, California 90071

Class Counsel

Barnow and Associates, P.C.
Attn: Ben Barnow
Le Beau et al. v. Kia America, Inc.
205 W. Randolph St., Suite 1630
Chicago, IL 60606

19 **Court Clerk**

20 Office of the Clerk
21 United States District Court
22 Central District of California
23 411 West 4th Street, Room 1053
24 Santa Ana, CA 92701-4516

Ahdoot & Wolfson, PC
Attn: Andrew W. Ferich
Le Beau et al. v. Kia America, Inc.
201 King of Prussia Road, Suite 650
Radnor, PA 19087

25 23. Class Members wishing to submit an objection to the Settlement must
26 include the following information in the written objection: (i) the case name and number,
27 *Le Beau. et al. v. Kia America, Inc.*, No. 22-cv-001545-FWS-JDE; (ii) the Class
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1 Member's full name, current address, and current telephone number; (iii) the model year
2 and VIN(s) of the Class Member's Class Vehicle(s); (iv) a statement of the objection(s)
3 including all factual and legal grounds for the position; (v) copies of any documents that
4 the objector wishes to submit in support of his/her position; and (vi) the signature of the
5 objecting Class Member, in addition to the signature of any attorney representing the
6 objecting Class Member in connection with the objection, and the date of the objection.
7 In addition, any Class Member objecting to the Settlement shall provide a list of any other
8 objections submitted by the objector and/or objector's counsel, to any class action
9 settlements submitted in any court in the United States in the previous five years. If the
10 Class Member and/or their counsel has not made any such prior objection, the Class
11 Member shall affirmatively so state in the written materials provided with the objection.

12 24. Any objecting Class Member may appear, in person or by counsel, at the
13 Final Approval Hearing, to show cause why the proposed Settlement should not be
14 approved as fair, adequate, and reasonable, or to object to any petitions for attorneys'
15 fees, Service Awards, and reimbursement of litigation costs and expenses. The objecting
16 Class Member must file with the clerk of the Court and serve upon all counsel designated
17 in the Class Notice, a notice of intention to appear at the Final Approval Hearing by the
18 Objection Deadline. The notice of intention to appear must include copies of any papers,
19 exhibits, or other evidence that the objecting Class Member (or his/her counsel) will
20 present to the Court in connection with the Final Approval Hearing. Any Class Member
21 who does not provide a notice of intention to appear in complete accordance with
22 specifications set forth in the Class Notice, subject to approval by the Court, may be
23 barred from speaking or otherwise presenting any views at the Final Approval Hearing.

24 25. All Class Members who have any objections must file a notice of objection
25 or request to be heard with the Court and serve by mail or hand delivery such notice of
26 objection or request to be heard at the addresses set forth in the Class Notice by no later
27 than the Objection Deadline.

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1 26. Any Settlement Class Member who fails to properly or timely file their
2 objections with the Court, along with the required information and documentation set
3 forth above, and serve them as provided above, may not be heard during the Final
4 Approval Hearing, their objections may be waived, and their objections may not be
5 considered by the Court.

6 27. In the event the Settlement is not granted final approval by this Court, or for
7 any reason the Parties fail to obtain a Final Order and Judgment as contemplated in the
8 Settlement Agreement, or the Settlement is terminated pursuant to its terms for any
9 reason, then the following shall apply:

- 10 a. All orders and findings entered in connection with the Settlement shall
11 become null and void and have no further force and effect, shall not be
12 used or referred to for any purposes whatsoever, and shall not be
13 admissible or discoverable in this or any other proceeding, judicial or
14 otherwise;
- 15 b. The Parties' respective pre-Settlement claims, defenses, and procedural
16 rights will be preserved, and the Parties will be restored to their positions
17 *status quo ante*;
- 18 c. Nothing contained in this Order is, or may be construed as, any admission
19 or concession by or against Defendant, Released Parties, or Plaintiffs on
20 any allegation, claim, defense, or point of fact or law in connection with
21 this Action;
- 22 d. Neither the Settlement terms nor any publicly disseminated information
23 regarding the Settlement, including, without limitation, the Class Notice,
24 court filings, orders, and public statements, may be used as evidence in
25 this or any other proceeding, judicial or otherwise; and
- 26 e. The preliminary certification of the Settlement Class pursuant to this
27 Order shall be vacated automatically, and the Action shall proceed as
28 though the Settlement Class had never been preliminarily certified.

1 28. Pending the Final Fairness Hearing and the Court’s decision whether to
2 grant final approval of the Settlement, no Settlement Class Member, either directly,
3 representatively, or in any other capacity (including those Settlement Class Members who
4 filed Requests for Exclusion from the Settlement which have not yet been reviewed and
5 approved by the Court at the Final Fairness Hearing), shall commence, prosecute,
6 continue to prosecute, or participate in - against Defendant and/or any of the Released
7 Parties - any action or proceeding in any court or tribunal (judicial, administrative, or
8 otherwise) asserting any of the matters, claims, or causes of action that are to be released
9 in the Settlement Agreement. Pursuant to 28 U.S.C. § 1651(a) and 2283, the Court finds
10 that issuance of this preliminary injunction is necessary and appropriate in aid of the
11 Court’s continuing jurisdiction and authority over the Action.

12 29. Pending the Final Fairness Hearing and any further determination thereof,
13 this Court shall maintain continuing jurisdiction over these Settlement proceedings.

14 30. Based on the foregoing, the Court sets forth below the following schedule
15 for the Final Fairness Hearing and the actions which must precede it. If any deadline set
16 forth in this Order falls on a weekend or federal holiday, then such deadline shall extend
17 to the next business day. These deadlines may be extended by order of the Court, for good
18 cause shown, without further notice to the Class. Settlement Class Members must check
19 the Settlement Website regularly for updates and further details regarding this Settlement
20 and any pertinent dates and deadlines:

Event	Deadline Pursuant to Settlement Agreement
Notice Date	75 days after issuance of Preliminary Approval Order
Class Counsel’s Fee and Expense Application and request for service awards for class representatives	14 days prior to Objection and Opt-Out Deadline
Objection and Opt-Out Deadline	60 days after Notice Date

Claims Deadline	90 days after Notice Date
Plaintiffs’ Motion for Final Approval of the Settlement	No later than 14 days prior to Final Fairness Hearing
Claims Administrator shall submit a declaration to the Court (i) reporting the names of all persons and entities that submitted timely and proper Requests for Exclusion; and (ii) attesting that Class Notice was disseminated in accordance with the Settlement Agreement and this Preliminary Approval Order.	No later than 5 days prior to Final Fairness Hearing
Final Fairness Hearing will be held at Ronald Reagan Federal Building and U.S. Courthouse, Courtroom 10D, Santa Ana, CA 92701 or by video conference as determined by the Court	_____ [a date on or after 195-days after issuance of Preliminary Approval Order]

31. The Court may modify the dates above if good cause exists, and the Court may adjourn the Final Fairness Hearing without further notice to Settlement Class Members; however, any changes to deadlines shall be posted on the Settlement Website.

SO ORDERED:

Date: _____

Honorable Fred W. Slaughter
United States District Judge