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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

In Re: KIA HYUNDAI VEHICLE
THEFT MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

CASE NO: **22-ML-3052 JVS**

ORDER NO. 1: INITIAL
CONFERENCE

This document relates to:

ALL CASES (See Exhibit A)

Date: February 7, 2023

Time: 9:00 a.m.

Place: 411 W. Fourth Street,
Santa Ana, CA 92701
Court Room 10C

By order of the Judicial Panel on Multidistrict Litigation (J.P.M.L.), the actions listed in Exhibit A were transferred and assigned to this Court for coordinated or consolidated pretrial proceedings under 28 U.S.C. § 1407. Additional tag-along actions may be transferred.

Because these cases merit special attention as complex litigation, the Court
ORDERS:

1 1. *Conference.* Counsel for all parties shall appear for a conference on
2 February 7, 2023 9:00 a.m. in Courtroom 10C of the Ronald Reagan Federal
3 Building and U.S. Courthouse at 411 W. Fourth Street, Santa Ana, CA, 92701.
4 The conference will be held for the purposes specified in Fed. R. Civ. P. 16(a),
5 16(b), 16(c), 16(f), and 26(f). Counsel are requested to check in with the
6 Courtroom Deputy at least 15 minutes in advance.

7
8 2. *Preliminary Thoughts.* The Court provides the following preliminary
9 thoughts in order to assist counsel in focusing on the immediate issues presented
10 by these cases. These thoughts are of course subject to revision upon submission
11 of the views of the parties and counsel which the Court invites.

12
13 2.1. *Structure.* The Court contemplates a Leadership Committee with
14 additional subcommittees for fact discovery and expert discovery. Each committee
15 will consist of three lawyers. A member of the Leadership Committee shall chair
16 each subcommittee. The Leadership Committee would have the responsibility for
17 drafting and presenting to the Court an overall scheduling plan for the case which
18 would include a discovery plan. The Court envisions that the scheduling plan
19 would address at least the issues set forth in Exhibit B hereto.

20 • The Court invites the parties' views on whether there should be
21 specific representation on the Leadership Committee for commercial
22 interests, such as fleet owners.

23
24 •The Court invites the parties' views on whether a liaison committee
25 should be appointed to coordinate with state proceedings.

26 2.2 *Applications for Lead and Other Counsel Appointments.*

27 Applications for these positions must be filed on or before January 23, 2023. The

1 Court will only consider attorneys who have filed an action in this litigation. The
2 main criteria for these appointments are (1) knowledge and experience in
3 prosecuting complex litigation, including class actions; (2) willingness and ability
4 to commit to a time-consuming process; (3) ability to work cooperatively with
5 others; and (4) access to sufficient resources to prosecute. The Court will strive for
6 diversity in the appointments, including race, age, sex, and geographical location.
7 Applications may not exceed ten pages, excluding any attached data summaries.

8
9 Any appointment will be of an individual personal appointment, and
10 will be subject to application for renewal at the end of each year in the case. The
11 Court is unlikely to make appointments by slate.

12
13 Depending on the number of applicants, each applicant will have five to ten
14 minutes to address the Court at the initial hearing.

15
16 2.3. *Role of Counsel.* The management of this docket holds unique
17 challenges. The Court looks forward to benefitting from the knowledge and
18 experience of seasoned counsel to arrive at solutions which will ensure the orderly
19 preparation of these cases. Counsel, the parties, and the Court will all need to work
20 collaboratively.

21
22 2.3. *Immediate Goals.* The goals of the Scheduling Conference are three-
23 fold: adoption of a structure for organizing the docket, appointment of counsel to
24 fill out the structure, and adoption of a working definition of core discovery.

25
26 2.4. *Next Step.* With the goals of the initial Scheduling Conference in place,
27 the Court will set a further conference in approximately 30 days to consider the
28 adoption of an overall scheduling plan, including a discovery plan.

1 3. *Particulars of the Scheduling Conference.*

2
3 3.1. *Representation.* Parties with similar interests may (but are not required
4 to) agree on a single attorney, or a limited number of attorneys, to act on their joint
5 behalf at the conference. A party will not, by designating an attorney to represent
6 his or her interests at the conference, be precluded from other representation during
7 the litigation. Attendance at the conference will not waive objections to
8 jurisdiction, service, or like matters. Telephonic appearances will not be permitted.

9
10 3.2. *Other Counsel.* This Order is being mailed to the persons shown on
11 Exhibit A, which has been prepared from the list of counsel making appearances
12 with the J.P.M.L. Counsel on this list are requested to forward a copy of this Order
13 to other attorneys who should be notified of the conference. An updated service
14 list will be prepared after the conference.

15 3.3. *Other Parties.* Persons who are not named as parties in this litigation
16 but may later be joined as parties, and persons who are parties in related litigation
17 pending in other federal and state courts, are invited to attend in person or by
18 counsel.

19
20 4. *Preparations for the Scheduling Conference.*

21
22 4.1. *Rules.* Counsel are expected to be familiar with the Manual for
23 Complex Litigation, Fourth. Counsel are also required to review the Local Rules
24 for the Central District of California, including Local Rule 5-4 (electronic filing),
25 and this Court's general procedures, all of which may be found on the Central
26 District of California website at www.cacd.uscourts.gov.

1 4. 2. *Initial Conference Counsel.* Before the conference, counsel shall
2 confer and seek consensus to the extent possible concerning the immediate issues
3 and any other matters they wish to bring to the Court at this time. The Court
4 designates:

5
6 Steve W. Berman, Esq.
7 HAGENS BERMAN SOBOL SHAPIRO LLP
8 1301 Second Avenue, Suite 2000
9 Seattle, WA 98101

10
11 Peter J. Brennan, Esq.
12 JENNER & BLOCK LLP
13 353 North Clark Street
14 Chicago, IL 60654-3456

15
16 Elizabeth A. Fegan, Esq.
17 FEGAN SCOTT LLC
18 150 S. Wacker Dr., 24th Floor
19 Chicago, IL 60606

20
21 Kenneth B. McClain, Esq.
22 HUMPHREY FARRINGTON & McCLAIN
23 221 W. Lexington Ave., Suite 400
24 Independence, MO 64050

25
26 These temporary designations are not a precursor of future appointments, but
27 simply a means to initiate the process. The Court expects that all counsel desiring

1 to do so will have a full opportunity to participate in the discussion and the report
2 which the Court requests.

3
4 4.3. *Preliminary Report.* Interim Counsel will submit to the Court by
5 Friday, January 30, 2023 a report including the following:

- 6 • Proposed structure of counsel.
- 7
- 8 • Identification of core discovery.
- 9
- 10 • A brief statement of counsel’s understanding of the facts and the critical
11 legal issues. Any potentially dispositive issues should be separately identified.
12 These statements will not be binding, will not waive claims or defenses, and may
13 not be offered into evidence against a party in later proceedings.
- 14
- 15 • A list of all pending motions.
- 16
- 17 • A list of all known related cases pending in state or federal court and their
18 current status.
- 19
- 20 • A list of all parents, subsidiaries, and companies affiliated with the
21 corporate parties and of all counsel associated in the litigation to help the Court
22 identify any problems of recusal or disqualification.
- 23

24 Where possible, the Court urges counsel to set forth their views in a single report
25 which notes both consensus views and divergent views where that is the case. Any
26 party may supplement the report with a filing of no more than ten pages.

1 5. *Interim Measures.*

2
3 5.1. *Admission of Counsel.* All attorneys admitted to practice and in good
4 standing in any United States District Court are admitted *pro hac vice*. Association
5 of local counsel is not required. If not already registered, counsel will need to
6 register for electronic filing (CM/ECF) in the Central District of California. (More
7 information can be found on the Court’s website.)

8
9 5.2. *Preservation of Records.* Until the parties reach agreement on a plan
10 for preservation of records, all parties and their counsel must preserve all evidence
11 that may be relevant to these actions.

12
13 5.3. *Stay of Motions Practice.* Except for motions for emergency relief, no
14 motion shall be filed until and in accordance with the Scheduling Order.

15
16 5.4 *Motions.* No motion shall be filed under Rule 11, 12, or 56 without
17 leave of court and unless it includes a certificate that the movant has conferred with
18 opposing counsel in a good faith effort to resolve the matter without court action.

19 5.5 *Orders of Transferor Courts.* All orders by transferor courts imposing
20 dates for pleading or discovery are vacated.

21
22 5.6. *Chambers Mail Box.* The Court maintains an electronic mail box for
23 communications with the Courtroom Deputy and for receipt of proposed orders in
24 electronic format (either Word or WordPerfect).

25 5.7. *Website.* The Court will shortly establish a web page accessible from
26 the first page of the Court’s website (click on “IN RE: KIA HYUNDAI VEHICLE
27 LITIGATION”). The Court will regularly post copies of orders, notices and other

1 items of interest to the page.

2
3 6. *Later Filed Cases.* This Order shall also apply to related cases later filed
4 in, removed to, or transferred to this Court.

5
6 IT IS SO ORDERED.

7
8 Dated: December 22, 2022



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11 James V. Selna
12 United States District Judge
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1 Exhibit A

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3 Central District of California

4 YEGHIAIAN, ET AL. v. KIA AMERICA, INC., ET AL., C.A. No.

5 8:22-01440 MCNERNEY, ET AL. v. KIA AMERICA, INC., ET AL., C.A.

6 No. 8:22-01548

7
8 District of Colorado

9 JONES v. KIA AMERICA, INC., ET AL., C.A. No. 1:22-02123

10
11 Middle District of Florida

12 PUE, ET AL. v. KIA AMERICA, INC., ET AL., C.A. No. 6:22-01440

13
14 Northern District of Illinois

15 LOBURGIO, ET AL. v. KIA AMERICA, INC., ET AL., C.A. No. 1:22-04071

16
17 Southern District of Iowa

18 BRADY, ET AL. v. KIA AMERICA, INC., ET AL., C.A. No. 4:22-00252

19
20 District of Kansas

21 SIMMONS, ET AL. v. KIA AMERICA, INC., ET AL., C.A. No. 2:22-02288

22
23 Eastern District of Kentucky

24 DAY v. KIA AMERICA, INC., ET AL., C.A. No. 5:22-00202

25
26 Western District of Missouri

1 BENDORF, ET AL. v. KIA AMERICA, ET AL., C.A. No.

2 4:22-00465 BISSELL v. HYUNDAI MOTOR AMERICA

3 CORPORATION, ET AL., C.A. No. 4:22-00548

4 District of Nebraska

5
6 HALL v. KIA AMERICA, INC., ET AL., C.A. No. 4:22-03155

7
8
9 Southern District of New York

10
11 MOON v. KIA AMERICA, INC., ET AL., C.A. No. 1:22-07433

12 Northern District of Ohio

13
14 SLOVAK, ET AL. v. KIA AMERICA, INC., ET AL., C.A. No. 3:22-01432

15 Southern District of Ohio

16
17 FRUHLING, ET AL. v. KIA MOTORS AMERICA, INC., ET AL., C.A. No.

18 1:22-00451 Southern District of Texas BODIE, ET AL. v. KIA AMERICA, INC., ET

19 AL., C.A. No. 4:22-02603

20 Eastern District of Wisconsin

21 MARVIN v. KIA AMERICA, INC., ET AL., C.A. No. 2:21-01146

1 Exhibit B

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3 Issues for Scheduling Conference Order

4
5 **General Matters**, including:

- 6
- 7 • Overview of the case: the key factual and legal issues, including any unusual
8 substantive, procedural, or evidentiary issues
 - 9
 - 10 • Proposals for accomplishing the goals described in Rule 16(a) of the Federal
11 Rules of Civil Procedure
 - 12 • Positions concerning the applicable topics described in Rule 16(c)
 - 13
 - 14 • Adoption of a consolidate complaint. Possible need for a consolidated
15 pleading
 - 16
 - 17 • Requirements and expectations concerning compliance with the Federal
18 Rules, the Local Rules for the Central District, and this Court's orders, rules,
19 and procedures
 - 20 • Jurisdictional issues, including whether any actions should be remanded to
21 state courts
 - 22
 - 23 • Possible need for coordination with actions pending in state courts or with
24 other categories of potentially related cases in federal court (e.g., securities
25 cases).
 - 26 • The service list
 - 27

1 **Motion Practice, including:**

- 2
- 3 • Description and status of pending motions
 - 4
 - 5 • Description of presently anticipated motions
 - 6
 - 7 • Motion cut-off and briefing schedules
 - 8
 - 9 • Procedures for class certification motions
 - 10
 - 11 • Compliance with the Local Rules and this Court's orders re motions
 - 12

13 **Discovery and Disclosures, including:**

- 14
- 15 • Dates and procedures for disclosures
 - 16
 - 17 • Subjects where discovery may be needed
 - 18
 - 19 • Sequencing of discovery
 - 20
 - 21 • Discovery cut-off dates(s) and whether discovery should be conducted in
 - 22 phases, or limited, or focused on particular issues
 - 23
 - 24 • Existence of trade secrets or other privileged materials, and possible need for
 - 25 a protective order
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 - 27 • Possible need for orders for the preservation of documents
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- Possible need for a document depository
- Document numbering system
- Changes to the limitations on discovery imposed by the Federal Rules
- Provisions for disclosure or discovery of electronically stored information
- Expert discovery
- Procedures for resolving discovery disputes, including appointment of a special master
- **Settlement**, including:
 - The nature and extent of discovery that must be completed before meaningful settlement discussions
 - Appropriate dispute resolution mechanism
- **Timetable**, including:
 - Overall timetable for completing the docket
 - Interim benchmarks and targets for tasks