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Robert D. Tookoian No. 194222  
Ovidio Oviedo, Jr., No. 210311  
LAW OFFICE OF OVIEDO TOOKOIAN, LLP  
1100 W. Shaw Avenue, Suite 130  
Fresno, CA 93711  
Telephone: (559) 226-6200  
Facsimile: (559) 222-3345

Attorneys for: John Papagni

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

John Papagni, an individual,	)	CASE NO. 1:09-CV-00041-OWW-GSA
	)	
Plaintiff,	)	STIPULATION TO DISMISS THE
	)	FOURTH CAUSE OF ACTION,
v.	)	INTENTIONAL INFLICTION OF
	)	EMOTIONAL DISTRESS, AND ROBERT
Elliott Auto Supply Co., Inc., a Minnesota	)	GRAY AND WITHOUT PREJUDICE
Corporation; Factory Motor Parts Co., a	)	
Minnesota Corporation, Robert Gray, an	)	
individual; and Does 1 through 10, inclusive.	)	
<u>                                Defendants.</u>		

IT IS HEREBY STIPULATED by and between the parties to this action through their designated counsel that the Fourth Cause of Action for Intentional Infliction of Emotional Distress and Mr. Robert Gray, an individual, are hereby dismissed without prejudice. Neither party is to be responsible to the other party for any costs or fees regarding this stipulation. Plaintiff shall not be responsible for any costs or fees associated with defendants' 12(b)(6) Motion to Strike, filed with the Court on or about January 9, 2009.

The undersigned respectfully request that the Court approve this order.

By:           /s/ Robert D. Tookoian                                

Dated: February 3, 2009

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Robert D. Tookoian,  
Attorney for Plaintiff

By: /s/ Catherine L. Manske  
Catherine L. Manske  
Attorney for Defendants

Dated: January 30, 2009

IT IS SO ORDERED.

**Dated:** February 5, 2009

/s/ Oliver W. Wanger  
UNITED STATES DISTRICT JUDGE