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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 DANA GRAY,

12 Plaintiff,

13 vs.

14 ROMERO, et al.,

15 Defendants.
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1:13-cv-01473-DAD-GSA-PC

**ORDER DENYING DEFENDANTS'
MOTIONS AS PREMATURE, WITHOUT
PREJUDICE, TO RENEWAL AFTER THE
COURT HAS COMPLETED SCREENING
THE SIXTH AMENDED COMPLAINT**

(ECF Nos. 309, 311.)

17 Dana Gray (“Plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action
18 pursuant to 42 U.S.C. § 1983. This case was filed on September 12, 2013. (ECF No. 1.)
19 Plaintiff filed the Sixth Amended Complaint on February 12, 2018. (ECF No. 307.)

20 On February 28, 2018, defendant Rebel filed a motion to dismiss Claim I of the Sixth
21 Amended Complaint, or in the alternative, for summary judgment as to Claim I of the Sixth
22 Amended Complaint. (ECF No. 309.) On March 5, 2018, defendants Ziomek, Romero,
23 Comelli, Loadholdt, and Mundurni filed a motion to dismiss the Sixth Amended Complaint.
24 (ECF No. 311.)

25 Defendants’ motions are premature. Under 28 U.S.C. § 1915A(a), the court is required
26 to screen complaints brought by prisoners seeking relief against a governmental entity or
27 officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss
28 a complaint, or portion thereof, if the prisoner has raised claims that are legally “frivolous or

1 malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary
2 relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).

3 Plaintiff’s Sixth Amended Complaint awaits the court’s requisite screening. Until the
4 court has completed its screening, Defendants should not file an answer or other responsive
5 pleading.

6 Based on the foregoing, IT IS HEREBY ORDERED that defendant Rebel’s motion to
7 dismiss or for summary judgment, filed on February 28, 2018, and defendants Ziomek,
8 Romero, Comelli, Loadholdt, and Mundurni’s motion to dismiss, filed on March 5, 2018, are
9 DENIED as premature, without prejudice to renewal of the motions after the court has
10 completed screening the Sixth Amended Complaint.

11 IT IS SO ORDERED.

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13 Dated: March 19, 2018

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE