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

DANIEL DEAN ALVARADO, JR.,  
Plaintiff,  
v.  
COUNTY OF TULARE,  
Defendant.

Case No. 1:17-cv-01396-BAM (PC)  
ORDER DENYING PLAINTIFF’S MOTION  
FOR SANCTIONS (RULE 37)  
(ECF No. 10)

Plaintiff Daniel Dean Alavarado, Jr. (“Plaintiff”) is a former state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action was initiated on October 3, 2017. (ECF No. 1.)

Currently before the Court is Plaintiff’s motion for sanctions pursuant to Federal Rule of Civil Procedure 37, filed January 8, 2018. (ECF No. 10.) Though difficult to understand, Plaintiff appears to request default judgment as a matter of law due to Defendant County of Tulare’s failure to respond to the complaint. (Id.)

Plaintiff’s motion for sanctions is premature and shall be denied without prejudice. The Court has not screened Plaintiff’s complaint to determine whether it is subject to dismissal or whether the action should proceed to discovery on Plaintiff’s claims. 28 U.S.C. § 1915(e)(2)(B)(ii) (“Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that . . . the action or

1 appeal . . . fails to state a claim upon which relief may be granted.”) The complaint has not been  
2 ordered served, no defendants have appeared, and discovery has not been opened. Plaintiff’s  
3 complaint will be screened in due course.

4 Accordingly, Plaintiff’s motion for sanctions, (ECF No. 10), is HEREBY DENIED,  
5 without prejudice, as premature.

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7 IT IS SO ORDERED.

8 Dated: January 12, 2018

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE

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