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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

VICTORY ILSUNG,	CASE No. 1:10-cv-02070-AWI-MJS (PC)
Plaintiff,	ORDER DENYING WITHOUT PREJUDICE PLAINTIFF'S MOTION FOR ALTERNATIVE DISPUTE RESOLUTION
v.	(ECF No. 39)
ROBERT MOBERT,	
Defendants.	

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Plaintiff Victory Ilsung, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action on November 8, 2010 pursuant to 42 U.S.C. § 1983. (ECF No. 1.) The matter proceeds on retaliation and medical indifference claims against Defendant Mobert. (ECF No. 14.) Defendant filed an Answer on April 2, 2013. (ECF No. 36.)

Pending before the Court is Plaintiff's Motion to set this matter for Alternative Dispute Resolution ("ADR"). Plaintiff suggests that this case is a good candidate for settlement, in part because his dialysis at times leaves him too exhausted to work on the case. (ECF No. 39.) Defendant has not filed opposition and the time for doing so has passed. Local Rule 230(f). The Motion is ready for ruling.

The Court's ADR process is available in cases such as this only if both parties agree or the Court exercises authority to compel it. Local Rule 271(a)(2). Although

1 Defendant's failure to oppose the Motion can be interpreted as agreement to ADR,  
2 Defendant has affirmatively advised the Court's litigation coordinator that Defendant  
3 does not believe settlement discussions would be productive at this time. Additionally,  
4 the Court notes that since discovery has not even begun, consideration of ADR may be  
5 premature.

6 The Court will deny the Motion at this time, but do so without prejudice to it being  
7 refiled if and as appropriate.

8 Accordingly, for the reasons stated, it is HEREBY ORDERED that Plaintiff's  
9 Motion that this matter be set for ADR (ECF No. 39) is DENIED without prejudice.

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13 IT IS SO ORDERED.

14 Dated: June 30, 2013

/s/ Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE