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****E-filed 12/12/11 ****

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE DEMAS WAI YAN,

No. C 11-2211 RS

Debtor,

Bankruptcy No. 04-33526 TEC
Adversary Proceeding No. 10-03149 TEC

DEMAS YAN

ORDER DISMISSING APPEAL

Appellant and Defendant,

v.

CRYSTAL LEI.,

Appellee and Plaintiff.

Appellant Demas Yan purports to appeal from an order docketed in Adversary Proceeding No. 10-03149 TEC on February 23, 2011, denying his motion to dismiss the adversary complaint of Appellee Crystal Lei, and from an order docketed on April 22, 2011, denying his motion for reconsideration of the prior order. The denial of a motion to dismiss is an interlocutory order, and as such, is not appealable as of right, absent circumstances not present here. *See Leisure Dev. Inc. v. Burke*, 95 B.R. 716, 717 (9th Cir. BAP 1989) (citing *John E. Burns Drilling Co. v. Central Bank of Denver*, 739 F.2d 1489 (10th Cir. 1984)). While the Court has discretion to treat a notice of appeal

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as a motion for leave to appeal, *see Leisure Dev.*, 95 B.R. at 717, nothing in the circumstances here warrants doing so. Accordingly, the appeal dismissed.

IT IS SO ORDERED.

Dated: 12/12/11



RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE