1	JUDGE HERB ROSS (Recalled)	
2		COURT FOR THE DISTRICT OF ALASKA
3		AK 99501-2253 — (Website: www.akb.uscourts.gov) 59-8059 In-State) — Judge's Fax: 907-271-2692
4		
5		
6		Filed On 4/22/10
7		
8		
9		
10	Case No. A09-00484-HAR	In Chapter 7
11	In re MICHAEL CROPLEY LASHBROOK	
12	and SANDRA JOY LASHBROOK,	
13	Debtor(s)	
14	MICHAEL CROPLEY LASHBROOK and SANDRA JOY LASHBROOK,	Adv Proc No A10-90009-HAR
15	Plaintiff(s)	MEMORANDUM REGARDING ORDER STRIKING COMPLAINT
16	V.	
17	WILLIAM BARSTOW, III, trustee; JEFFREY G. PASCO, dba Beluga Realty;	
18	and KAY S. HUFF, dba Beluga Property Management,	
19	Defendant(s)	
20	The plaintiffs' 42 page complaint does	not comply with Fed. R. Bankr. P. 7008, which
21	incorporates Fed. R. Civil P. 8(a). The rule stat	tes, among other things, that a claim for relief should
22	contain "a short and plain statement of the clai	m that the pleader is entitled to relief;" The
23	Lashbrooks' complaint is prolix, confusing, gar	rulous, and unnecessarily full of irrelevant evidentiary
24	conclusions. It would be extremely burdensom	e to require the defendants to parse the complaint to
25		
26		
27		
28		Page 1 of

## Case 10-90009 Doc 11 Filed 04/22/10 Entered 04/22/10 16:25:41 Desc Main Document Page 2 of 4

determine what was being claimed and what they are required to answer.<sup>1</sup> The complaint is "verbose, confused and redundant."<sup>2</sup>

Therefore, on its own motion, the court will strike the complaint, without prejudice to the filing of a short, plain complaint requesting relief. *I suggest the Lashbrooks also study the <u>Barton</u> <u>Doctrine</u> which require leave of the court to sue a trustee.<sup>3</sup>* 

I take at face value the Lashbrooks' anguish at their financial distress and its effect on their three young children and themselves. I am also aware the federal trial courts are supposed to cut *pro se* litigants some slack in judging their compliance with federal procedures. This does not give the *pro se* litigant a free pass to ignore the rules.<sup>4</sup>

And, the Lashbrooks, too, should understand that the trustee, William Barstow, has a duty to see what estate assets can be turned into cash for the benefit of the creditors. He is not bound to accept the low values the debtors may have placed on their assets, and indeed is entitled to believe they are undervalued. The very intensity of debtors' denial is perhaps fuel for his skepticism. Even if he is wrong, it is his duty and right to explore the facts.

I discern the key themes in the complaint as follows:

Plaintiffs claim that the trustee has missed the Fed. Rule B. Proc 4003(c) deadline to object to the debtors' claim of exemption of the 41 acre trailer park. The exempt amount was listed as \$0, and the federal exemption under 11 USC § 522(d)(5) is \$1,075 + \$10,125 = \$11,200 for each debtor. The issue of whether or not the debtors are limited to \$22,400 or the trustee has lost the unstated equity which might exist in the trailer court is currently before the

1

2

3

4

5

6

7

8

9

<sup>1</sup><u>Agnew v Moody</u>, 330 F2d 868, 870 (9<sup>th</sup> Cir 1964).

<sup>2</sup><u>Corcoran v Yorty</u>, 347 F2d 222, 223 (9<sup>th</sup> Cir 1965).

<sup>3</sup><u>In re Castillo</u>, 297 F3d 940, 945 (9<sup>th</sup> Cir 2002) 3 Collier on Bankruptcy, ¶ 323.03[3][a] [15<sup>th</sup> ed. rev. 2010].

<sup>4</sup><u>Stanley v Goodwin</u>, 475 FSupp 1026, 1032-33 (D Hawaii 2006).

MEMORANDUM REGARDING ORDER STRIKING COMPLAINT

1	Supreme Court of the United States in Schwab v Reilly. The bankruptcy website for the	
2	American Bankruptcy Institute summarizes the matter as follows:	
3	Schwab v. Reilly $(08-538)^5$	
4	Decision: Pending Issue:	
5	issue.	
6	In this case, the Court addressed the meaning of its decision in <i>Taylor v. Freeland &amp; Kronz</i> , 502 U.S. 638 (1992), which has been construed in contradictory ways by courts. Specifically, the Court considered the following two questions:	
7	When a debtor claims an exemption using a specific dollar amount that is equal to the	
8 9	value placed on the asset by the debtor, is the exemption limited to the specific amount claimed, or do the numbers being equal operate to "fully exempt" the asset, regardless of its true value?	
10 11	When a debtor claims an exemption using a specific dollar amount that is equal to the value placed on the asset by the debtor, must a trustee who wishes to sell the asset object to the exemptions within the thirty day period of Rule 4003, even though the	
12	amount claimed as exempt and the type of property are within the exemption statute and thus the claimed exemption does not appear improper on its face?	
13	Oral Arguments: Nov. 3, 2009	
14	We should have a decision within the next month or so.	
15	<ul> <li>Plaintiffs allege a number of improprieties in the way the trustee, his attorneys, and agents</li> </ul>	
16	are going about their jobs, and allege that the trustee is not providing information. For	
17	example, the Lashbrooks state that:	
18	— <u>Barstow is not authorized to operate</u> the trailer park business under 11 USC §§ 704(a)(8),	
19	721. Good point.	
20	The trustee has been filing reports under Rule 2015(a)(3). If court approval is necessary, it	
21	should be sought. Coincidentally, the trustee may be using some entity's cash collateral	
22	without its specific authorization or court approval. 11 USC § 363(c)(2).	
23	— <u>A real estate broker has not been authorized</u> . 11 USC § 327. <i>Good point</i> .	
24		
25		
26	<sup>5</sup> Schwab v Reilly, 129 SCt 2049 (2009) (granting cert).	
27		
	MEMORANDUM REGARDING	

28 ORDER STRIKING COMPLAINT

## Case 10-90009 Doc 11 Filed 04/22/10 Entered 04/22/10 16:25:41 Desc Main Document Page 4 of 4

1	The court did not see an application for a real estate broker, only a property manager. If a	
2	real estate broker is being used, an application to employ the broker should be filed.	
3	— The Lashbrooks spend pages berating Barstow and Artus with claims and innuendoes of	
4	breaches of fiduciary duty, but these men are entitled to pursue their duties to liquidate the	
5	estate. And, the U.S. Trustee is the appropriate person to take this type of complaint to	
6	with respect to the trustee.	
7	And, if plaintiffs are accurate in all their criticisms of Barstow, Artus, and the real estate	
8	agents, the court would nonetheless undoubtedly approve a sale of the 41 acre trailer court on	
9	adequate terms.	
10	Barstow, etc., might stand to lose some or all of their fees if they acted improperly. But the	
11	court would not punish the creditors or deny them a dividend, just because the bankruptcy	
12	professionals misbehaved. The point is that the many pages in the complaint of alleged	
13	improprieties is not going to protect the property from being sold if a buyer can be found who will	
14	pay enough.	
15	• The Trees. "On information and belief" the Lashbrooks say the trustee intends to cut some trees.	
16	Have they asked the trustee?	
17	DATED: April 22, 2010	
18	DATED. April 22, 2010	
19	/s/ Herb Ross HERB ROSS	
20	U.S. Bankruptcy Judge Serve:	
21	Sandra Lashbrook, pro se, $\pi$ Michael Lashbrook, pro se, $\pi$	
22	Willilam Artus, Esq., for $\Delta$ , Barstow William Barstow	
23	Jeffrey Pasco, PO Box 535, Kenai, AK 99611 Kay Huff, PO Box 535, Kenai, AK 99611	
24	Jeff Carney, Esq. (courtesy copy) Kay Hill, Asst. US Trustee	
25	Cheryl Rapp, Adv. Proc. Mgr. D7306 04/22/10	
26		
27	MEMORANDUM REGARDING	
28	ORDER STRIKING COMPLAINT Page 4 of 4	