## **United States Court of Appeals**FOR THE EIGHTH CIRCUIT

No. 06-1421

In re: George L. Young; Professional	*	
Business Services, Inc.; United	*	
Livestock Services, LLC, f/k/a MFA	*	
Livestock Services, LLC; Rio Baca,	*	
Inc., a/k/a Rio Baca Ranch, a/k/a Rio	*	
Baca Cattle Co., a/k/a Rio Baca	*	
Feedlot; Rio Timba, Inc.,	*	
	*	
Debtors.	*	
	*	
	*	
Alfred Neuberger Cattle Company,	*	Appeal from the United States
Inc.; Lan Cattle Company; E&J Cattle	*	Bankruptcy Appellate Panel
Company; Alan J. Neuberger; U.S.	*	for the Eighth Circuit.
Bank National Association,	*	
,	*	[UNPUBLISHED]
Appellees,	*	,
11 /	*	
V.	*	
	*	
George L. Young; Professional	*	
Business Services, Inc.,	*	
<del></del>	*	
Appellants. <sup>1</sup>	*	

<sup>&</sup>lt;sup>1</sup>An official caption containing a complete list of parties is on file and available for inspection in the Office of the Clerk of Court, United States Court of Appeals for the Eighth Circuit.

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Submitted: October 20, 2006 Filed: December 6, 2006

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Before WOLLMAN, RILEY, and GRUENDER, Circuit Judges.

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## PER CURIAM.

George L. Young (Young) contends the bankruptcy court lacked jurisdiction because 11 U.S.C. § 303(a)<sup>2</sup> divested the court of subject matter jurisdiction over involuntary bankruptcy petitions brought against farmers. In <u>In re Marlar</u>, 432 F.3d 813, 814-15 (8th Cir. 2005) (per curiam), we concluded § 303(a) provides farmers with an affirmative defense to the commencement of involuntary bankruptcy petitions, and it does not strip the bankruptcy courts of subject matter jurisdiction. Young concedes <u>In re Marlar</u> is the controlling precedent and asks us to recommend to the en banc court that <u>In re Marlar</u> be overruled. We conclude <u>In re Marlar</u> controls, and we further believe <u>In re Marlar</u> was correctly decided and therefore decline the invitation to recommend this appeal be heard en banc.

We affirm the judgment of the Bankruptcy Appellate Panel.

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An involuntary case may be commenced only under chapter 7 or 11 of this title, and only against a person, except a farmer, family farmer, or a corporation that is not a moneyed, business, or commercial corporation, that may be a debtor under the chapter under which such case is commenced.

<sup>&</sup>lt;sup>2</sup>Section 303(a), in relevant part, provides: