IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CANAL INSURANCE COMPANY,

Plaintiff,

v.

CAROLE A. STAHL, KOELLEN TRUCKING, LLC and MARK L. VAN BEEM,

Defendants,

and

UNITED LIQUID WASTE RECYCLING, INC.,

Intervening Defendant.

OPINION AND ORDER

10-cv-312-slc

This action for declaratory judgment arises out of a 2006 motor vehicle accident involving a vehicle driven by defendant Carole Stahl; a semi-tractor owned by defendant Koellen Trucking, LLC and operated by Koellen's employee, defendant Mark Van Beem; and a trailer owned by defendant United Liquid Waste Recycling, Inc. (ULW). Stahl was injured in the accident and filed suit against the other defendants in an Iowa state court. Koellen is the named insured on a liability insurance policy issued by plaintiff Canal Insurance Company. By virtue of their relationships to Koellen, Van Beem and ULW are "insured persons" under that policy. Canal is defending Koellen, Van Beem and ULW in the Iowa lawsuit.

When a dispute arose about the total coverage available under the Canal policy, Canal filed a declaratory judgment action pursuant to 28 U.S.C. § 2201 in the U.S. District Court for the Northern District of Iowa, case no. 09-cv-1035, seeking an order declaring that its total liability is limited to $1,000,000 for all 3 defendants. After determining that the Western District of Wisconsin was the more convenient forum, the Northern District Court of Iowa

transferred the case to this court on June 7, 2010. *See* dkt. 1. Now before the court are the parties' cross-motions for summary judgment. *See* dkts. 22 and 26.

The parties agree that this case involves only a question of law, namely whether Wisconsin's Omnibus Statute, Wis. Stat. § 632.32, applies to commercial trucking policies or to accidents occurring out of state, and if it does, whether it allows for separate liability policy limits for the named and unnamed insureds. I find the answer to each of these questions is yes, at least to the extent that each of the insureds is found actively negligent in the Iowa lawsuit. Therefore, Canal must offer separate, full liability limits to each insured under the policy who is found actively negligent. Canal's motion for summary judgment will be denied and defendants' motion for summary judgment will be granted.

The parties have stipulated to the following facts (dkt. 24), which I find to be undisputed and material for the purposes of deciding the motions for summary judgment:

UNDISPUTED FACTS

Defendant Mark Van Beem, a Wisconsin resident, was the driver of a 2004 Freightliner semi-tractor that was involved in a collision with defendant Carole Stahl, a resident of Dubuque, Iowa, on November 5, 2006. Van Beem was employed by defendant Koellen Trucking, LLC, which is a Wisconsin corporation with its principal office in Watertown, Wisconsin. Koellen is a commercial motor carrier that hauls property. At the time of the accident, Van Beem was hauling a tanker trailer owned by defendant United Liquid Waste Recycling, Inc., a Wisconsin corporation located in Clyman, Wisconsin. Plaintiff Canal Insurance Company, a South Carolina corporation with a principal place of business in Greenville, South Carolina, holds a policy issued to Koellen Trucking in the State of Wisconsin.

Stahl is the plaintiff in a lawsuit currently pending in Dubuque County Iowa District Court, case no. 01311 LACV055616. Stahl alleged in her state court complaint that when she was in the left turn lane at an intersection in Dubuque, Iowa, Van Beem took a right turn too sharply in front of her, causing his truck to tip over and collide with her vehicle. Alleging that she suffered injuries as a result of the accident, Stahl brought claims against Van Beem for negligence; against Koellen Trucking for vicarious liability, respondeat superior, negligent entrustment, negligence and negligent hiring and/or supervision; and against ULW for negligence and negligent entrustment.

The Canal policy at issue was effective June 4, 2006 through June 4, 2007 and was limited to $1 million. The 2004 Freightliner involved in the Iowa accident is identified in the policy as "Auto No. 1." ULW's trailer qualifies as a covered auto (Auto No. 4) under this policy, specifically as "any trailer while singularly attached to a scheduled tractor." As a result, ULW qualifies as an insured. As Koellen's employee, Van Beem qualifies as a "person insured" because he was using the vehicle with the permission of the named insured.

Canal is defending Koellen, Van Beem, and ULW in the Stahl state lawsuit. In that case, a dispute has arisen among the defendants over the total coverage available under the Canal policy. ULW, Koellen and Van Beem have taken the position that if each of them is found to be actively negligent, they are each entitled to separate $1 million limits under the policy. Stahl agrees with this interpretation. Canal asserts that its liability is limited to $1,000,000.

The policy contains the following provisions:

LIMIT OF LIABILITY		COVERAGES
X each person	each occurrence $1,000,000	Combined Single Limit

* * *

AMENDATORY ENDORSEMENT – WISCONSIN

The policy to which this endorsement is attached is amended by the terms of this endorsement subject to the Limits of Liability required by Wisconsin statute 344.01. All policy terms remain unchanged as they apply to limits excess of those required or 25/50/10 per authority of 344.33(6).

* * *

SINGLE LIMIT OF LIABILITY ENDORSEMENT

LIMITS OF LIABILITY

Regardless of the number of (1) **insureds** under this policy, (2) persons or organizations who sustain **bodily injury** or **property damage**, (3) claims made or suits brought on account of **bodily injury** or property damage, or (4) **automobiles** to which this policy applies, the company's liability is limited as follows:

Bodily Injury and Liability Property Damage Liability:

The limit of liability stated in the schedule of the policy as applicable to "**each occurrence**" is the total limit of the company's liability for all damages because of **bodily injury**, including damages for care and loss of services, or **property damage** as a result of any one **occurrence**, provided that with respect to any one occurrence for which notice of this policy is given in lieu of security or when this policy is certified as proof of financial responsibility under the provisions of the Motor Vehicle Financial Responsibility Law of any state or providence, such limit of liability shall be applied to provide the separate limits required by such law for **bodily injury** liability and for **property damage** liability to the extent of the coverage required by such law, but the separate application of such limit shall not increase the total limit of the company's liability.

* * * *

OPINION

I. Summary Judgment Standard

Summary judgment is proper where there is no showing of a genuine issue of material fact in the pleadings, depositions, answers to interrogatories, admissions and affidavits, and where the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). "'A genuine issue of material fact arises only if sufficient evidence favoring the nonmoving party exists to permit a jury to return a verdict for that party.'" *Sides v. City of Champaign*, 496 F.3d 820, 826 (7th Cir. 2007) (quoting *Brummett v. Sinclair Broadcast Group, Inc.*, 414 F.3d 686, 692 (7th Cir. 2005)). In determining whether a genuine issue of material facts exists, the court must construe all facts in favor of the nonmoving party. *Squibb v. Memorial Medical Center*, 497 F.3d 775, 780 (7th Cir. 2007). Even so, the nonmoving party must "do more than simply show that there is some metaphysical doubt as to the material facts." *Matsushita Electric Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). The party that bears the burden of proof on a particular issue may not rest on its pleadings, but must affirmatively demonstrate, by specific factual allegations, that there is a genuine issue of material fact that requires a trial. *Hunter v. Amin*, 538 F.3d 486, 489 (7th Cir. 2009) (internal quotation omitted); *see also Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986).

II. Wisconsin Omnibus Statute

A. General Requirements

Wis. Stat. § 632.32, which is commonly known as the Omnibus Statute, regulates coverage for all motor vehicle insurance policies issued or delivered in Wisconsin, *see* §§

631.01(1) and 632.32(1), and requires, among other things, that insurers provide coverage "in the same manner and under the same provisions to any person using any motor vehicle described in the policy when the use is for purposes and in the manner described in the policy," § 632.32(3)(a). "Using" includes "driving, operating, manipulating, riding in and any other use." § 632.32(2)(c) (2006 version).[1] The statutory definition of "motor vehicles" specifically includes trailers and semitrailers that are "designed for use with" motor vehicles. § 632.32(2)(a) (2006 version).[2] When a policy is inconsistent with the Omnibus Statute, it must be reformed to comply. § 631.15(4).

Wisconsin requires the following minimum liability limits for motor vehicle insurance policies with respect to any one accident: $25,000 per person for bodily injury or death; $50,000 for 2 or more persons for bodily injury or death; and $10,000 for injury to or destruction of property. § 344.01(2)(am). However, because Koellen is a commercial motor carrier, it is subject to different laws and regulations than regular automobile owners, such as the requirement that it carry a minimum of $750,000 in liability insurance. *See* Wis. Stat. §§ 194.01(1) (definition of commercial motor carrier) and 194.41 (insurance requirements for commercial motor carriers); Wis. Admin. Code Trans. 176.06 (proscribing minimum liability limits for commercial motor carriers). In this case, Koellen was insured for $1 million in coverage under the Canal policy.

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[1] Effective November 1, 2009, § 632.32(2)(c) was renumbered as § 632.32(2)(h).

[2] Effective November 1, 2009, § 632.32(2)(a) was renumbered as § 632.32(2)(at).

B. Multiple Liability Limits

As defendants point out, the Wisconsin court of appeals has long held that § 632.32(3) requires insurers to offer separate liability policy limits to each insured who has committed a separate act of "active" negligence (versus imputed negligence). *See Progressive Casualty Ins. Co. v. Bauer*, 301 Wis. 2d 491, 731 N.W.2d 378 (Ct. App. 2007) (motorcycle owner sued for negligent entrustment of negligent driver); *Iaquinta v. Allstate Ins. Co.*, 180 Wis. 2d 661, 510 N.W.2d 715 (Ct. App. 1993) (automobile owner allowed intoxicated person to drive); *Miller v. Amundson*, 117 Wis. 2d 425, 345 N.W.2d 494 (Ct. App. 1984) (young boy injured due to grandmother's negligent driving and mother's negligent supervision). The insurance policy at issue in all of these cases covered both the vehicle owners and drivers as insureds and contained a $25,000 per injured person limit. *Id.* In *Miller*, 117 Wis. 2d at 428-31, 345 N.W.2d at 496-97, and *Iaquinta*, 180 Wis. 2d at 665-66, 669, 510 N.W.2d at 717-18, the court of appeals interpreted § 632.32(3)(a) as requiring the insurance company to provide $25,000 of coverage to each of its insureds, regardless of the language in its policy.[3] Fourteen years later, the court followed its reasoning in *Miller* and *Iaquinta* and found that a statute allowing motor vehicle insurance policies to prohibit the stacking of coverage limits did not apply where there was only one coverage, one vehicle and multiple insureds. *Bauer*, 301 Wis. 2d at 497; 731 N.W.2d at 381.

The Wisconsin Supreme Court also has addressed the impact of § 632.32(3) on the applicability of policy limits to multiple insureds whose liabilities are covered by the same

[3] In *Miller*, the court applied what was then numbered § 632.32(2)(b) (1977 version). Although the wording of the Omnibus Statute has changed and been renumbered, the court in *Iaquinta* found that "the substance of the current [version] and the version applied in *Miller* are the same" with respect to the question at issue. *Iaquinta*, 180 Wis. 2d at 666; 510 N.W.2d at 717.

insurance policy. *LaCount v. General Casualty Ins. Co. of Wis.*, 288 Wis. 2d 358, 393, 709 N.W.2d 418,435-36 (Wis. 2006). *LaCount* involved an action brought by injured persons against a minor for negligent operation of a motor vehicle and against her father for imputed negligence as the sponsor of his daughter's driver's license. Although the state supreme court determined that § 632.32(3) did not provide separate limits of liability for the father and daughter because the father was liable only for imputed negligence, it acknowledged the distinction between liability based on active negligence and liability based on imputed negligence. *Id.* After reviewing *Miller*, *Iaquinta* and their progeny, and its recent holding in *Folkman v. Quamme*, 264 Wis. 2d 617, 665 N.W.2d 857 (Wis. 2003), the court noted that limited liability conflicts with § 632.32(3) when both the named insured and an additional insured that is "legally responsible for the use of the motor vehicle" are each actively negligent. *Id.*, 288 Wis. 2d at 388, 709 N.W.2d at 433. The court also recognized in dicta that the intended purpose of the Omnibus Statute is "protecting insureds and third parties, and generally expanding insurance coverage." *Id.*, 288 Wis. 2d at 392, 709 N.W.2d at 435.

C. Applicability to Commercial Carriers

Defendants contend that the rule announced in *Miller*, *Iaquinta*, *Bauer* and *LaCount* requires Canal to offer Koellen, Van Beem and ULW separate $1 million liability policy limits for any acts of "active" negligence (versus imputed negligence) for which they may be found liable. Canal attempts to distinguish this line of cases on the ground that they involved regular automobiles and not commercial motor carriers. It points out that Wisconsin has never applied *Iaquinta*'s interpretation of the Omnibus Statute to a commercial trucking policy with the types

of endorsements that its policy contains, namely a single liability limit endorsement or a Wisconsin amendatory endorsement.

On its face, the Omnibus Statute clearly applies to *all* motor vehicle insurance policies issued or delivered in Wisconsin. *See Bindrim v. B. & J. Ins. Agency*, 190 Wis. 2d 525, 534-35, 527 N.W.2d 320, 323-24 (Wis. 1995) (finding plain language of Omnibus Statute requires all policies to comply with its terms). The parties do not dispute that the Canal policy was issued or delivered in Wisconsin. The 2004 Freightliner owned by Koellen and driven by Van Beem meets the statutory definition of "motor vehicle," which means a "self-propelled land motor vehicle designed for travel on public roads." *See* § 632.32(1) and (2). The term "motor vehicle" also specifically includes trailers and semi-trailers that are designed for use with motor vehicles, such as the tanker trailer owned by ULW in this case. *Id.* Further, although Wisconsin has not ruled directly on whether the Omnibus Statute applies to commercial carriers, federal and state cases interpreting the statute assume that it does.

Although not directly on point, a 1998 case arising in this court related to the applicability of the Omnibus Statute to commercial motor carriers. *See Mullenberg v. Kilgust Mechanical, Inc.*, case no. 98-C-258-S (Oct. 29, 1998). Mullenberg was a commercial truck driver who was injured when a Kilgust employee was unloading his truck. Kilgust's insurance policy contained a third-party unloading exclusion, which Mullenberg asserted was void under the Omnibus Statute. Judge John Shabaz held that the statute did not apply on its face because the policy at issue was not "issued or delivered in" Wisconsin, as required under § 632.32. He also determined that nothing in § 194.41 implicitly incorporated the requirements of § 632.32 with respect to motor carriers. On appeal, the Court of Appeals for the Seventh Circuit certified the

following questions to the Wisconsin Supreme Court because Wisconsin courts had yet to address the issue:

> Whether Wis. Stat. § 194.41 because of its use of the term "negligent operation" requires insurers to cover the loading activities of third-parties and, if not, whether Wis. Stat. § 194.41 incorporates the Omnibus Statute, Wis. Stat. § 632.32, so that an insurer who issues and delivers a policy outside of Wisconsin must comply with the requirements of the Omnibus Statute.

Mullenberg, 235 Wis. 2d 770, 772, 612 N.W.2d 327, 328 (Wis. 2000); *see also Mullenberg*, 2000 WL 1047525, *2 (7th Cir. Jul. 27, 2000) (decision after certification). Because the Wisconsin Supreme Court determined that § 194.41 required coverage of third-party unloading, it declined to rule on whether chapter 194 incorporates § 632.32. *Id.*, 235 Wis. 2d at 778-79, 612 N.W.2d at 331.

Although the question whether § 194.41 implicitly incorporates § 632.32 was never resolved, this court and the Seventh Circuit seemed to assume that the Omnibus Statute would apply to a commercial trucking policy that actually was issued or delivered in Wisconsin, as it was in this case. In fact, Judge Shabaz noted in dicta in *Mullenberg* that several Wisconsin cases "have assumed the applicability of the Omnibus Statute in the context of motor carriers." *See, e.g., Kroske v. Anaconda American Brass Co.*, 70 Wis. 2d 632, 637, 235 N.W.2d 283, 285 (Wis. 1975), *superseded by statute on other grounds as stated in Mullenberg*, 235 Wis. 2d at 777, 612 N.W.2d at 330 (assuming that Omnibus Statute would apply to motor carrier insurance policy but no need to apply it because there was no unloading coverage for insured); *Amery Motor Co. v. Corey*, 46 Wis. 2d 291, 174 N.W.2d 540 (Wis. 1970) (application of Omnibus Statute not challenged in case involving commercial trucking policy issued in Minnesota); *Lukaszewicz v.*

Concrete Research, Inc., 43 Wis. 2d 335, 168 N.W.2d 581 (Wis. 1969) (trial court applied Omnibus Statute to trucking policy).

In a more recent decision, the state court of appeals noted that additional insureds may avail themselves of a policy unless there is a statutory exception for a restriction on multiple coverage and the policy explicitly takes advantage of the exception. *Casper v. American Int'l South Ins. Co.*, 323 Wis. 2d 82, 113, 779 N.W.2d 445, 461 (Ct. App. 2010). In *Casper*, the insured vehicle was a commercial truck that had been leased from Ryder Truck Rental, the policy holder at issue. 323 Wis. 2d at 104, 779 N.W.2d at 456-57. The court found that Ryder's policy contained the language necessary to invoke § 632.32(5)(c), an exception to the Omnibus Statute providing that policies issued to motor vehicle handlers (including lessors) can prevent permissive users from availing themselves of the policy except in cases where there is no other valid collectible insurance. *Id.*, 323 Wis. 2d at 113-14, 779 N.W.2d at 461. The implication in the case was that but for this exception, the Omnibus Statute would have required the insurer to cover the commercial truck driver in the same manner that it covered Ryder.

In addition to the above, Wisconsin has applied the Omnibus Statute to other types of commercial insurance policies. *See, e.g., Rocker v. USAA Cas. Ins. Co.*, 289 Wis. 2d 294, 313-14, 711 N.W.2d 634, 643-44 (Wis. 2006) (car wash's comprehensive liability policy providing motor vehicle coverage subject to § 632.32(6)(a) of Omnibus Statute); *Mittnacht v. St. Paul Fire and Casualty Ins. Co.*, 316 Wis. 2d 787, 767 N.W.2d 301 (Ct. App. 2009) (commercial auto insurance policy subject to statute). In *Rocker*, the state supreme court noted that although "every subsection of § 632.32 does not automatically apply to all motor vehicle insurance policies," "[t]he language of § 632.32(1) unambiguously requires every insurance policy that

provides motor vehicle liability coverage to meet the requirements of the other sections of the omnibus statute, unless otherwise provided." 289 Wis. 2d at 317-18, 711 N.W.2d at 646.

Nothing in the plain language of the Omnibus Statute or the case law interpreting it indicates that the statutory requirements do not apply to commercial motor carriers. Canal argues that applying multiple liability limits to commercial trucking insurance policies is bad public policy because it will cause premiums to skyrocket and force trucking companies out of Wisconsin. As an example, it points out that because certain motor carrier agreements require the motor carrier to name as insureds all parties authorizing delivery or receipt of equipment, insurers easily could be required to include up to 20 different insureds in their trucking policies, transferring a $1 million policy into a $20 million policy. Although these considerations are best left for the Wisconsin legislature, I don't share Canal's concerns. Wisconsin allows multiple policy limits only in those cases where each insured is found actively negligent. As defendants point out, it is highly unlikely that 20 separate insureds would be found actively negligent for a single accident, or even then, that a plaintiff would suffer $20 million in damages. In any event, I have no doubt that in enacting the Omnibus Statute and choosing to apply it to *all* motor vehicle policies, the Wisconsin legislature weighed the potential effects of increased insurance premiums on Wisconsin businesses against the desire to ensure that persons injured in automobile accidents are compensated fully.

In a final attempt to avoid paying multiple liability policy limits, Canal asserts that the Omnibus Statute does not apply to out-of-state motor vehicle accidents. Although it concedes that Wisconsin law governs the interpretation of the policy, it claims that the Omnibus Statute

"has no effect" in Iowa.[4] Canal's distinction is one without a difference. How and to what extent the policy's liability limits are applied are a matter of policy interpretation. This is not a situation in which one state is attempting to regulate the actions of the citizens of another state. The policy at issue in this case was issued and delivered in Wisconsin to a Wisconsin-based trucking company. As such, the policy is subject to Wisconsin law. The fact that the accident that triggered invocation of the policy occurred in Iowa does not change this.

In sum, Canal must cover all insureds under the Koellen policy in the same manner by offering separate liability limits to each insured who is found actively negligent in the Stahl lawsuit. Because the "Single Limit of Liability Endorsement" in the Canal policy is inconsistent with the Omnibus Statute, it must be reformed to comply with state law.[5] *See* § 631.15(4). As the Wisconsin supreme court noted in *Rocker*, "if a subsection of the omnibus statute requires an insurer to provide a certain type of coverage, the insurer must provide the coverage even if the express terms of the policy do not provide the coverage." 289 Wis. 2d at 317-18, 711 N.W.2d at 646. That said, the question remains as to what amount Canal must offer as a liability limit to each insured found actively negligent under the policy.

III. Amount of Liability Limit

Canal contends that the policy's "Amendatory Endorsement — Wisconsin" provides that when the policy is certified as proof of financial responsibility under Chapter 344, primary

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[4] Because the parties agree that the policy should be interpreted under Wisconsin law, it is unnecessary to reach defendants' choice-of-law arguments.

[5] In an alternative argument, defendants contend that this endorsement is ambiguous and, therefore, must be construed in their favor. However, because the provision is unenforceable as contradictory to state law, it is unnecessary to determine whether it is ambiguous.

coverage is limited to $25,000 per injured person. It then reasons that the Omnibus Statute requires only that it offer each insured the same primary limit of $25,000 for a total of $75,000 in coverage. Canal asserts that the remainder of the $1 million policy limit is "excess coverage." In support, Canal cites § 344.33(6) of Wisconsin's financial responsibility statutes, which provides that:

> Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such excess or additional coverage is not subject to the provisions of this chapter. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" applies only to that part of the coverage which is required by this section.

There are a few problems with Canal's reasoning. First, although at the time of the Stahl accident, § 344.01 required liability limits of $25,000 per person for motor vehicle policies, both state and federal law required vehicles like the freightliner to carry a minimum of $750,000 per person in coverage. *See* Wis. Admin. Code Trans. § 176.06. Second, § 344.33(6)–which Canal cites as proof that only primary coverage limits must be offered–merely limits "the coverage required" to statutory minimums and exempts any excess coverage from the requirements of Chapter 344. *See Nutter v. Milwaukee Ins. Co.*, 167 Wis. 2d 449, 458, 481 N.W.2d 701, 705 (Ct. App. 1992); *American Family Mut. Ins. Co. v. Zimmerman*, 161 Wis. 2d 97, 101, 467 N.W.2d 209, 210 (Ct. App. 1991). Nothing in Chapter 344 limits how Chapter 632 applies to excess liability insurance coverage. In fact, Canal seems to be confusing the purposes of the Omnibus and financial responsibility statutes.

"While Chapter 632 . . . regulates provisions of insurance policies issued or delivered in Wisconsin, Chapter 344, comprising the financial responsibility laws, 'regulates the owners and

operators of motor vehicles who are involved in accidents in Wisconsin.'" *Beerbohm v. State Farm Mut. Auto. Ins. Co.*, 235 Wis. 2d 182, 191, 612 N.W.2d 338, 343 (Ct. App. 2000) (quoting *Classified Ins. Co. v. Budget Rent-A-Car of Wis., Inc.*, 186 Wis. 2d 478, 483, 521 N.W.2d 177 (Ct. App. 1994)). The financial responsibility laws are generally divided into two parts: "Security for Past Accidents," which encompasses §§ 344.12 to 344.22; and "Proof of Financial Responsibility for The Future," which encompasses §§ 344.24 to 344.42. *Beerbohm*, 235 Wis. 2d at 191, 612 N.W.2d at 343 (citing *Keane v. Auto-Owners Ins. Co.*, 159 Wis. 2d 539, 551-53, 464 N.W.2d 830 (1991)). Unlike § 632.32, § 344.33 does not apply to every automobile insurance policy issued in Wisconsin. *Id.*

At the time of the Stahl accident, § 344.33(1) defined a "motor vehicle liability policy" as "a motor vehicle policy of liability insurance, certified as provided in s. 344.31 or 344.32 as proof of financial responsibility for the future." In short, the statute required drivers whose licenses had been revoked because of poor driving records to show proof of financial responsibility to have their operators licenses reinstated. *See Beerbohm*, 235 Wis. 2d at 191-92, 612 N.W.2d at 343-44 (citation omitted). Although Canal generally claims that the policy in this case was "certified as proof of financial responsibility" under Chapter 344, there are no facts supporting this conclusion. There is no evidence that the policy in this case was used as proof of financial responsibility in order to have a drivers license reinstated. *See id.* (finding same). Thus, Canal has not established that the requirements of § 344.33(6) even apply in this case, let alone act to reduce the liability limits which it must offer to the insureds in this case. Given the above findings, it is unnecessary to address defendants' argument that the amendatory endorsement in the Canal policy is ambiguous.

In conclusion, because defendants are entitled to summary judgment in this case, their motion will be granted and Canal's motion will be denied. Under Wisconsin law, Canal must offer separate, full liability limits to each insured found actively negligent in the Iowa lawsuit.

ORDER

IT IS ORDERED that:

(1) The motion for summary judgment (dkt. 22) filed by defendants Carole Stahl, Koellen Trucking, LLC, Mark Van Beem and United Liquid Waste Recycling, Inc. is GRANTED; and

(2) Plaintiff Canal Insurance Company's motion for summary judgment (dkt. 26) is DENIED; and

(3) The clerk of court is directed to enter judgment for defendants and close this case.

Entered this 18th day of January, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge