

RENTAL VEHICLES:  
WHAT IS RESOLVED—AND  
UNRESOLVED—UNDER FEDERAL  
LAW? UNDER MINNESOTA STATE  
LAW?

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- Liability priority has shifted to insurer of the operator

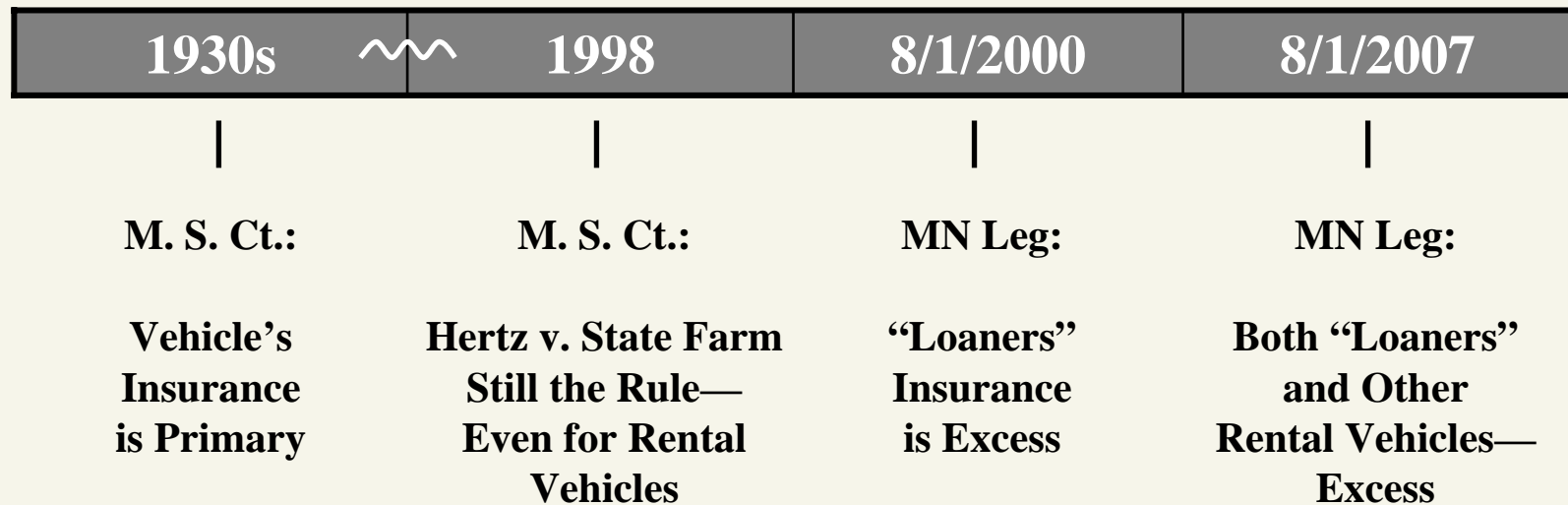
- Vicarious liability of Minnesota rental vehicle owners is preempted by federal law

- UIM: Must calibrate exposure without “cap” or vicarious from rental owner

- “Loaners” are not affected; they remain “vicarious”

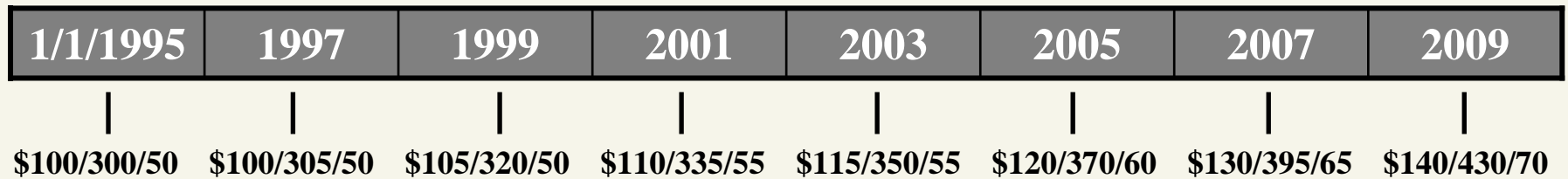
- Out-of-state insurers must challenge imposition of Minnesota PIP, UM, and UIM upon out-of-state policies

# “WHICH LIABILITY COVERAGE IS PRIMARY?”



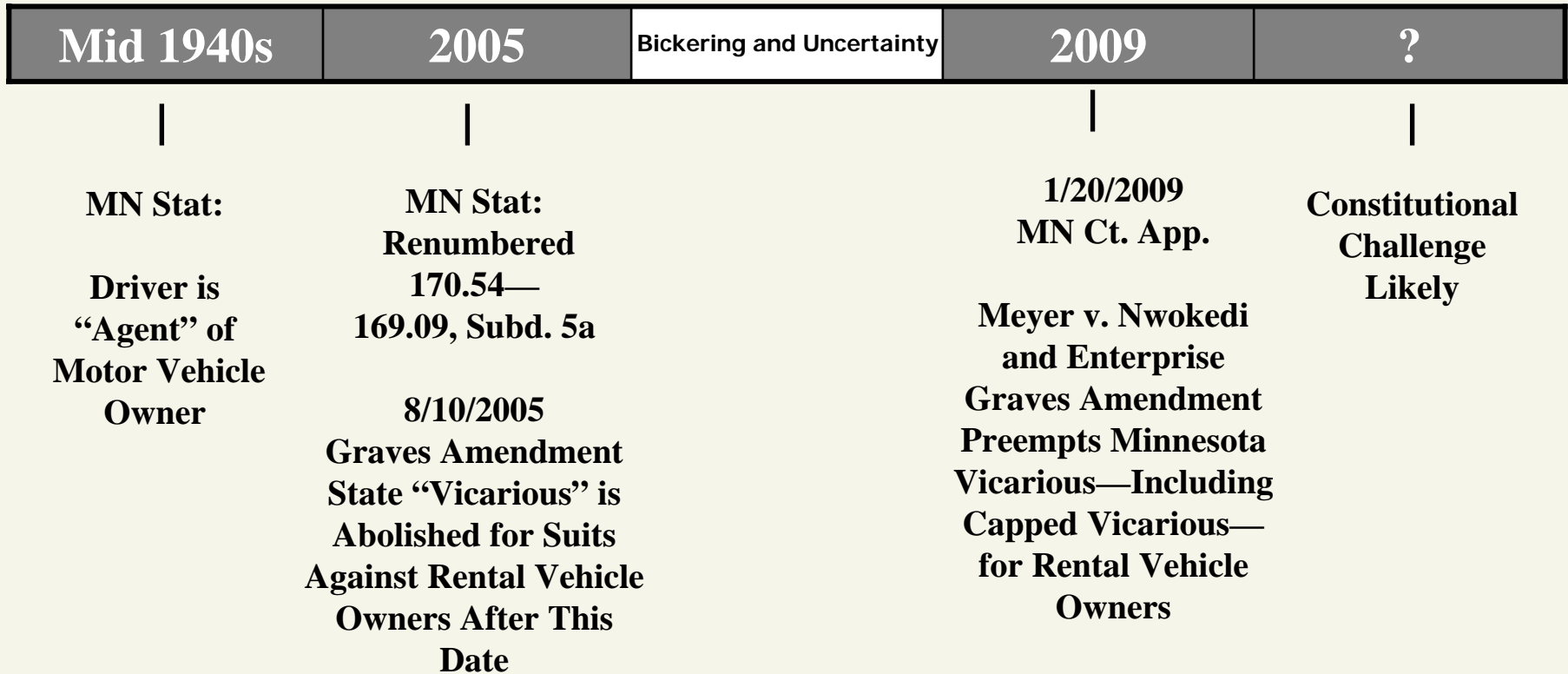
- Minnesota vicarious liability—by which vehicle driver’s fault is imputed to the owner—is no longer applicable to *rental* vehicle owners
  - Graves Amendment 8/10/2005
  - Meyer v. Nwokedi and Enterprise

# MINNESOTA'S "CAPPED" VICARIOUS LIMITS-RENTAL VEHICLE OWNERS



[http://www.state.mn.us/mn/externalDocs/Commerce/Vicarious\\_Liability\\_Limits\\_060503122743\\_vic-liability.pdf](http://www.state.mn.us/mn/externalDocs/Commerce/Vicarious_Liability_Limits_060503122743_vic-liability.pdf)

# MINNESOTA VICARIOUS AS APPLIED TO RENTAL VEHICLE OWNERS



# GRAVES AMENDMENT

- (a) In general. An owner of a motor vehicle that rents or leases the vehicle to a person (or an affiliate of the owner) shall not be liable under the law of any State or political subdivision thereof, by reason of being the owner of the vehicle (or an affiliate of the owner), for harm to persons or property that results or arises out of the use, operation, or possession of the vehicle during the period of the rental or lease, if
  - (1) the owner (or an affiliate of the owner) is engaged in the trade or business of renting or leasing motor vehicles; and
  - (2) there is no negligence or criminal wrongdoing on the part of the owner (or an affiliate of the owner).

# GRAVES EXCEPTIONS

- (b) Financial responsibility laws. Nothing in this section supersedes the law of any state or political subdivision thereof
  - (1) imposing financial responsibility or insurance standards on the owner of a motor vehicle for the privilege of registering and operating a motor vehicle; or
  - (2) imposing liability on business entities engaged in the trade or business of renting or leasing motor vehicles for failure to meet the financial responsibility or liability insurance requirements under State law

49 U.S.C. § 30106

# “LOANERS”

- Are rental vehicles—Minnesota statute
- Not likely immune under Graves—  
Federal

- At what point is rental vehicle “underinsured”?

# MINNESOTA 2007 RENTAL LAW CHANGES

- Look at addition and deletion in the law

# WHAT DOES OWNER OF RENTAL VEHICLE PROVIDE?

- \$30/\$60/\$10 only?
- Can rental vehicle's \$30/\$60/\$10 disappear?

- Will out-of-state policy have MN PIP, UM, and UIM imposed upon it?

- Not as written. Will policy language rewrite it?

- Minnesota statutes have long required non-resident to have \$30/\$60/\$10 and PIP

- Reach of Minnesota statutes as interpreted by courts: before the 2007 legislation so favorable to rental industry
  - Minnesota case law has consistently held that a non-resident's insurance policy need not provide Minnesota's form or limits of uninsured motorist or underinsured motorist coverage. See *Warthan v. American Fam. Mut. Ins. Co.*, 592 N.W.2d 136 (Minn. Ct. App. 1999) rev. denied (Minn. July 28, 1999) (will not require UIM coverage); *Aquilar v. Texas Farmers Ins. Co.*, 504 N.W.2d 791 (Minn. Ct. App. 1993) (Does not require UIM coverage); *Hedin v. State Farm Mut. Auto. Ins. Co.*, 351 N.W.2d 407 (Minn. Ct. App. 1984) (UM coverage.) An automobile policy issued in another state to a non-Minnesotan who subsequently moves to Minnesota will not be required to afford Minnesota UM/UIM coverages until the policy is renewed in Minnesota. *Cantu v. Atlanta Cas. Cos.*, 535 N.W.2d 291 (Minn. 1995) reh'g denied, (Minn. Sept. 11, 1995).

- Can the 2007 language rewrite out-of-state policy—especially if no vehicle present in the state?

- 2007 Minnesota legislation: Let the bickering begin! (And hopefully end soon!)

# QUESTIONS & ANSWERS

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*THANK YOU FOR ATTENDING!*

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