



1. Michael Horton is a resident of Wales, Androscoggin County, Maine.
2. Robert Sinclair is a resident of Lewiston, Androscoggin County, Maine.
3. LP Poirier & Son Excavation Inc. is a corporation that provides residential and commercial excavation services throughout Maine, and has a principal place of business in Lewiston, Maine.

### **Facts**

4. On June 28, 2024, Plaintiff Michael Horton was on his way from his home in Wales, Maine, to his job as a senior ultrasound technician at St. Mary's Regional Hospital in Lewiston, Maine.
5. At the time, it was a warm, sunny, dry, late June morning, so Plaintiff was riding his 2017 Harley Davidson motorcycle.
6. While Plaintiff was travelling east bound on Wales Road in Sabattus, and nearing the intersection of Cruz Drive and Wales Road, Defendant Robert Sinclair suddenly pulled out from Cruz Drive, onto Wales Road, without ever seeing Plaintiff.
7. Defendant Sinclair, who was on the job at the time of the crash, was driving a very large 2007 Mack dump truck, owned by his employer Defendant LP Poirier & Sons Excavation Inc.
8. Defendant Sinclair pulled the Mack truck almost all the way across Plaintiff's lane of travel.
9. Because Defendant Sinclair pulled out into Plaintiff's lane of travel suddenly and while it was unsafe to do so, Plaintiff did not have time to slow down or stop to avoid the crash.
10. Initially, Plaintiff tried to steer to the left, toward the road's center line, to avoid Defendants' truck.

11. However, a car traveling in the opposite direction caused Plaintiff to need to steer back to the right.
12. When he did, he could not avoid the front end of Defendants' truck.
13. Plaintiff crashed into the front-end driver's side Defendants' truck, was launched off of his motorcycle, and over the hood of the truck.
14. Plaintiff landed on his legs on the other side.
15. Sabattus EMS responded to the scene and found Plaintiff laying on the ground with a "blatant left ankle fracture."



Screenshot from the body camera of responding Sabattus PD officer, showing Plaintiff on the ground with left foot turned outward, demonstrating blatant ankle fracture.

### **Defendants' Commercial Motor Vehicle Violations**

16. A post-crash Driver/Vehicle Examination of Defendant L.P. Poirer & Sons truck was conducted by the Maine State Police.
17. The examination revealed that Defendant's truck had several violations of Federal Motor Carrier Safety Regulations, including inadequate brake tubing and hose adequacy,

inoperative/defective brakes, tire tread depth, and operating without proof of a periodic inspection.

18. Defendant's truck was also found to be in violation of state and local laws by operating with an excessive weight or more than 5000 lbs. over on allowable gross weight.

19. Defendant L.P. Poirer & Sons was cited for operating the truck without proof of a periodic inspection and for operating the truck while it was over the allowable gross weight.

**Plaintiff's immediate post-crash injuries**

20. Plaintiff was taken to Central Maine Medical Center where he was diagnosed with a lower left extremity comminuted left distal tibia and fibula pilon fracture, fractures of the cuboid, lateral cuneiform and intermediate cuneiform, and a right lower extremity shin abrasion.

21. Plaintiff underwent surgery that evening to receive a spanning external fixator on his lower left extremity with washout of shin abrasion by Dr. David Brown, with a plan to follow up with Dr. Brown the following week for an open reduction and internal fixation ("ORIF") surgery on his left ankle after swelling decreased.



22. Plaintiff was discharged from CMMC the following morning, June 29.
23. On discharge, as is standard of care for deep vein thrombosis prophylaxis post-lower extremity orthopedic surgery, Plaintiff was prescribed “Xarelto 10 mg once daily for 30 days postoperatively for DVT (blood clot) prophylaxis.”
24. Plaintiff returned to CMMC on July 5, 2024, and underwent a removal of his spanning external fixator on his lower left leg, an ORIF of his left distal tibia and fibular pilon fracture, and an ORIF of his left ankle syndesmosis.



25. On July 19, Plaintiff experienced a vasovagal episode during a follow-up orthopedic appointment with Dr. Brown.
26. Plaintiff was taken via ambulance to CMMC's Emergency Department with a chief complaint of chest pressure and shortness of breath.
27. Evaluation did not reveal a cause of Plaintiff's chest pressure and shortness of breath, although his providers noted it was possible that irritation of the GI tract could be one explanation.

**Plaintiff's upper GI bleed caused by Xarelto**

28. On August 2, Plaintiff experienced a syncopal episode at home and when he woke up, he vomited approximately 375 mls of bright red blood.
29. Plaintiff was rushed back to CMMC via ambulance, where he was admitted to the intensive care unit diagnosed with an upper GI bleed, hemorrhagic shock, acute hypoxemic respiratory failure due to aspiration pneumonia, and acute blood loss anemia.
30. He required intubation for critical illness and a ten-day hospitalization, almost all of which was in the CMMC Intensive Care Unit.
31. It was later revealed that the source of Plaintiff's GI bleed was gastric polyps.
32. It was also determined that the cause of Plaintiff's severe and excessive bleeding of the gastric polyps was "due to DOAC (direct acting oral anticoagulants, i.e., Xarelto) which was prescribed for DVT prophylaxis after orthopedic surgery."
33. According to an August 13 letter from Plaintiff's treating gastroenterologist, Dimitri Belkin, MD, Plaintiff's upper GI bleed started when he began taking Xarelto approximately one month earlier.

34. Plaintiff remained admitted to the intensive care until from August 2 to August 10, when he was advanced to the hospital's medical ward.

35. Plaintiff was discharged to home, the following day, August 11, 2024.

**The aftermath of Plaintiff's injuries and his ongoing suffering**

36. Plaintiff spent the next several months continuing to try to recover from his orthopedic injuries and receiving both follow-up orthopedic care and follow-up gastroenterology care.

37. He has still not fully recovered from his orthopedic injury and is not likely to make further progress.

38. At present, he lacks plantar and dorsiflexion in his left ankle, which makes it difficult to walk, climb stairs, bear weight, stand on tip toes, and step up or down (to name just a few things).

39. He had hoped to be able to go back to work full-time to support his family, but his physical pain and limitations are too much to allow him to do that.

40. Although Plaintiff has been able to work part-time, he has not been able to log more hours due to the pain in his ankle.

41. He has had to limit or give up activities he once loved and looked forward to enjoying at this phase of his life.

42. Plaintiff's wife Frances has had to take care of her husband throughout this time and has lost much of the companionship she once enjoyed from her husband.

**Count I – Negligence**

**(as to L.P. Poirier & Sons and Sinclair)**

43. Plaintiff repeats and realleges each of the foregoing paragraphs as if set forth fully herein.

44. At all times material to this Complaint, Defendant L.P. Poirier & Sons, by and through its employees and agents, including Defendant Sinclair, owed a duty to operate its trucks in a safe and reasonable manner, with due regard to other motorists on the road, and to comply with Federal and State laws, regulations, industry standards and guidelines relating to the driving of commercial vehicles on public roads.

45. L.P. Poirier & Sons and Sinclair breached their duties of care by, among other things:

- a. Failing to develop, follow, and enforce appropriate policies, failing to follow Federal and State laws and regulations, and failing to implement and follow systems and safety practices, that resulted in Sinclair driving a truck that was out of compliance with state and federal motor carrier regulations;
- b. Failing to properly hire, retain, supervise, and train drivers in the safe and attentive operation of its trucks, resulting in the dangerous operation that caused this crash; and
- c. Failing to operate the truck in a safe and reasonable manner resulting in pulling out into a main roadway, in front of Plaintiff, when it was not safe to do so.

46. As a direct and proximate result of Defendants' negligence, Plaintiffs have suffered from painful and permanent injuries, emotional distress, loss of enjoyment of life, lost earnings and earning capacity, medical expenses.

**Count II – Negligent, Hiring, Training, & Supervision**

**(as to L.P. Poirier & Sons)**

47. Plaintiff repeats and realleges each of the foregoing paragraphs as if set forth fully herein.

48. L.P. Poirer & Sons was negligent in hiring Sinclair and entrusting him to drive a truck.

49. L.P. Poirier & Sons was negligent in failing to properly supervise Sinclair.

50. As a direct and proximate result of L.P. Poirer & Sons' negligence in hiring Sinclair and entrusting him with driving a truck and failing to train and supervise him properly, Plaintiff has suffered from painful and permanent injuries, emotional distress, loss of enjoyment of life, lost earnings and earning capacity and medical expenses.

**Count III: Loss of Consortium for Frances Horton**

51. Plaintiffs re-allege the preceding allegations.

52. As a result of the negligence and harm detailed above, Plaintiff Frances Horton has suffered loss of consortium.

**Demand for Jury Trial**

Plaintiffs hereby requests that their claims be tried by a jury.

WHEREFORE, Plaintiff requests judgment against Defendants and damages in an amount to be determined by a jury, including compensatory damages, punitive damages, past and future medical expenses, emotional distress, lost earnings and earning capacity, lost enjoyment of life, together with attorney fees, costs, and such other and further relief as this Court deems just and appropriate.

DATED this 26 day of February, 2025



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