

# Newberger vs. pokrass annotated bibliography

[Engineering](#), [Aviation](#)



## **Introduction**

The main issue that is discussed in the case is whether a passenger can share the responsibility of the pilot in negligent operation of an aircraft Rules. Pokrass filed a suit regarding the crash and wanted a wage compensation for the lost wages and relief compensation for suffering and pain. Pokrass' Estate appealed the decision of the court. The court explained that in such cases, the rule of "*the things speak for itself*" is used. Recent past events would determine the court's decision. It is presumed that the element that caused the accident was under the control of the defendant and the accident occurred because of the careless Act. When the accident occurred, Newberger was sitting besides Pokrass and Pokrass said that he was feeling sleepy. Newberger warned Pokrass that the aircraft was about to crash and Pokrass said he knew that. He however did not do anything to control the crash. Ultimately the aircraft crashed and Pokrass died as a result of that. Due to the inefficient and Pokrass' lethargic attitude, the aircraft crashed.

## **Annotated Bibliography**

Article 1 - Dawna L. Rhoades (2008) Evolution of International Aviation:  
Phoenix Rising

This book lays out the forces that shaped the international aviation industry and the forces that changed all the rules in the drive for liberalization. It also takes a closer look at the numerous interesting and difficult choices that the airline industry and the international aviation industry face. This book also takes a closer look at some of the issues that revolve around the

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international aviation industry and the law suits filed in relation to the industry. It relates to the case of Newberner Vs Pokrass who had a law suit after the pilot, Pokrass had neglected the air traffic rules and made the aircraft they were flying in to crash. In this case, it was very difficult for the court to make a ruling based on the guidelines that existed in the aviation industry. The court however made their ruling based on the doctrine the things speak for themselves and found Pokrass the pilot to be negligent. The court later awarded Newberner a compensation for the losses that he went through. In the Newberger Vs Pokrass case, it was found that the pilot was negligent. This is evident from the way Pokrass talked to Newberger about his sleepy nature. The determination of *res ipsa loquitur* which stated that '*things speak for itself*' was used in the judgment. According to the article the court acted within its mandate to determine the *res ipsa loquiur*. However, the amount of money that was awarded to Newberger for the wage loss of \$20, 000 and \$55, 000 by the jury seemed to be excessive. Pokrass was found to be guilty since the use of the doctrine did not require the plaintiff's lawyer to prove that the defendant was negligent. It was evident from the occurrence of events that Pokrass was negligent thus causing the accident. He deliberately flew at low altitudes in a hilly terrain and his altimeter setting was faulty. His failure to correct the errors even after being warned by Newberger resulted into the accident.

Article 2 - Melvin C. Newberger v. Irving M. Pokrass et al. CCH 10 AVI 17, 118 (1967)

This article looks at the case of Newberger Vs Pokrass from a different perspective. It aims at establishing whether a passenger can take up the responsibility of a pilot in case of some negligence by the pilot. The article outlines the relationship between the occupants of the aircraft when it crashed. According to the article, it can be established that the occupants of the aircraft were Melvin Newberger, William Pokrass (the owner of the aircraft and the pilot) and another friend Barbara Seely. The three were friends and decided to take a flight to Eagle River Wisconsin where Pokrass had a home. The weather condition on this day was unfavorable and therefore had to stop at Oshkosh until the weather cleared. As they were flying Newberger napped and Pokrass also mentioned to him that he too felt sleepy. Newberger woke up and told Pokrass that they were just about to hit the trees. Pokrass neglected him and told him that he was aware about that. He did nothing to avert the crash. Unfortunately the aircraft crashed and Pokrass and Seely lost their lives. Newberger filed a suit against Pokrass for loss of wage and pains suffered which he eventually won. Pokrass' estate moved in to challenge the court decision saying that Newberger could have helped in stopping the crash if he had stayed awake. However they lost as the court established that Pokrass was negligent on several occasions.

## **References**

Dawna L. Rhoades (2008) Evolution of International Aviation: Phoenix Rising

Melvin C. Newberger v. Irving M. Pokrass et al. 118 (1967) CCH 10 AVI 17