Discussion 2: Libel Law

Question 1:
The *New York Times v. Sullivan* case is a landmark case primarily for transforming libel law into a First Amendment issue because justices recognized that public officials were using the law to intimidate and punish people for speaking out on social issues, and in many cases - particularly in that civil rights era - speaking out against suspect behavior by public officials.

If *the current U.S. Supreme Court* (which contains a 6-3 conservative-leaning majority and also a few members who have expressed disagreement with the *Sullivan* precedent) were the ones deciding that case in 1964, they probably would have sided with Chief Sullivan…so:
   A) **How do you think that would have affected our freedom of speech generally (both at the time and today)**
   B) **How do you think that would have affected libel law specifically (both then and today)?**

*Use specific references to the landmark *NYT v. Sullivan* case AND to the elements of libel law developed in that case to write your answer.

Question 2:
A federal jury found *Rolling Stone magazine* liable of defaming a University of Virginia administrator by publishing a story it later retracted about an alleged gang rape at UVA.

The story, in part, blamed the situation on the university's lack of response to the alleged victim, specifically inaction by Dean of Students Nicole Eramo. Read this story from ABC News' 20/20 about the libel suit and the story that led to it. Then answer these questions:

   ● It was determined before trial that Eramo, the administrator, would be deemed a limited public figure. What did that mean for her as the plaintiff and her burden of proof?
   ● The court agreed she met the designated burden; what evidence/reason did the court rule this way? **In other words, explain why the jury did find the reporter and magazine liable for committing libel.**
   ● What do you think of the tenet of libel law that the burden of proof falls on the individual who is claiming to have been "defamed?" Why would you agree with this or not?
   ● Looking at both this libel suit (in which the publication was found guilty of libel) as well as at NYT v. Sullivan (in which the publication was found not guilty of libel) - how could the outcome in each be different If the "fault" element of proving libel (either showing malice or negligence) did not exist? What impact would that have on freedom of speech and press if a plaintiff didn't have to prove fault by the media (or whoever committed potential libel)?

Question 3:
The Dominion Voting Systems libel suit against Fox News and Fox Corp. heated up last week when Dominion revealed text messages between Fox News hosts over the Jan. 6 riots as well

as the election outcomes in several states. **[Read this story](#)** about the messages and their impact on the case currently about to go to court.

- First, why are these text messages so critical for Dominion and so damaging to Fox News? (answer according to how they will play into the libel suit and defense)
- One of the issues still to be determined is if Dominion will be considered a private figure, a public figure or a limited public figure. If you were the judge, how would you rule on this? And then based on your declaration, what level of "fault" would Dominion have to prove?
- Given the level of fault you would apply (malice v. negligence) how do you think the court should rule in the defamation suit against Fox News - is it guilty of libel? Why/why not? Apply the tenets of libel law and the elements you can find out from this case to explain your answer (*note: you can use information reported on neutral legal sites or in mainstream news articles - but not directly from Dominion's website or social media commentary or any reports on Fox because they each have an obvious bias. Also, no information from cable news as they tend to lean to one side or the other) **In your explanation, link to any information you use as evidence for your decision.**