**Lecture 10/7 –**

**Case:** Editor of WaPo and I am running an article that says “Donald Trump Jr. uses Cocaine Daily.” I got an anonymous call and the person sounded good and gave a number of details, sources – it looks good enough for me! Personally – we have a strong desire to make money, but we have no strong desire to hurt Don Jr.

* Sullivan – Is there actual malice? If you say something against a public official and it is proven false, then you have to reach actual malice
  + The falsity has to be one where there was actual knowledge that this was false; gross recklessness
  + In NYTimes v Sullivan - Sullivan is the Police Commissioner, his responsibilities lie over the police department; NYTimes runs an advertisement by a Civil Rights Group that tries to raise money/awareness in Alabama, has falsehoods that says King was arrested fewer times than he was, that dining hall was padlocked, that students were expelled for another reason,
    - Sullivan decides to sue, this is *a civil and not a criminal case,* criminal cases are brought by the state, and has to be violating U.S. code
    - Instead, this is a state law – criminal cases result in prison or a fine
      * Criminal case – prove that they committed the crime beyond a reasonable doubt, jury has to find that
    - This is a civil case on *torts*
      * Tort – A person’s personal rights have been violated by someone else, and you hold them liable for damages
      * A person acts negligently and causes injury to another person, that person can then sue for damages in a court
        + Classic tort – person runs a red light and hits another car, the person can then sue in a tort civil case to recover personal injury
        + Invasion of privacy is a tort as well
    - This is a civil case on libel and defamation:
      * If a false statement of fact is of and concerning that person, that person can sue
      * Under Alabama Law, you have to show libel is per se
        + Have to go to court, say this article is libel from a tort viewpoint, a person would read and think less of my client, and now we want to recover something – *all this is called strict liability under tort law*

Strict liability – defendant did something, it caused me damages; I am able to recover without ANY SHOWING that the person’s behavior fell below some standard

* + - * + Normal standard of behavior – the standard of care that reasonable people would have exhibited (otherwise known as negligence)
      * Alabama has strict liability, but other states have to prove negligence
  + **True Doctrine of Sullivan:** When it comes to criticism or commentary about public officials, you cannot be held libel for damages or false statements of fact about that public official unless the official can show that you made the falsity with actual malice, meaning that you did so in reckless disregard
  + **Holmes** in Abrams v Sullivan – Sullivan emphasizes freedom of speech and press to democracy and self-governance, while Holmes talks about value of freedom of speech and press to the truth
  + Central meaning of 1A – sovereignty lies in the public and in the citizens and they deserve the full protection to exercise their self-governing rights