

**RESPONSE TO ALLEGED "SIMILARITIES"
BETWEEN ECHO OF LIONS AND BLACK MUTINY**

| <u>ECHO OF LIONS</u> | <u>BLACK MUTINY</u> | RESPONSE |
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| 1. "Book is entitled Echo of Lions." | Poem entitled "African Chief," at beginning of book, that compares African chief to a "lion." | Not similar. |
| 2. Cinque owns a rice plantation. (p. 18) | Cinque works in the village rice fields. (p. 13) | <p>In <u>Echo of Lions</u> and <u>Amistad</u>, Cinque and his brother-in-law own a large rice plantation . (Declaration of John Shaeffer Filed in Support of Plaintiff’s Motion for Preliminary Injunction ("Shaeffer Dec") Ex. 108 at 18.) This image exists outside of the historical record and does not appear in <u>Black Mutiny</u>, where we see Cinque and his brother (not brother-in-law) planting rice. (Supplemental Declaration of John Shaeffer (See accompanying Shaeffer Supp. Decl.), Ex. L at 13.)</p> <p>The historical record indicates that Cinque was a rice farmer (Shaeffer Supp. Decl., Ex. D, John W. Barber, <u>A History of the Amistad Captives</u> ("Barber") at 9.)</p> |

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| 3. Cinque has a brother-in-law. (p. 18) | Cinque has a brother-in-law. (p. 303) | At the beginning of <u>Echo of Lions</u> , Barbara Chase-Riboud writes that Cinque possesses a large rice plantation with his brother-in-law. (Shaeffer Decl., Ex. 108 at 18.) At the end of <u>Black Mutiny</u> , there is a reference to Cinque meeting the husband of his sister upon his return to Africa. (Shaeffer Supp. Decl., Ex. L at 303. What is key is the use of the term “brother-in-law” (a western concept) and the linking of the brother-in-law to the rice plantation. This is the sequence in <u>Echo of Lions</u> and the shooting script for <u>Amistad</u> . (Shaeffer Decl., Ex. 107 at 78-79, Ex. 108 at 18.) |
| 4. Cinque has three children: two with his first wife, Bayeh Bia, and one with his second wife, Tau. (pp. 17, 319) | Cinque has three children from his only wife, Tafe. (p. 13) | In <u>Echo of Lions</u> and the shooting script of <u>Amistad</u> , we see Cinque with one child. (Shaeffer Decl., Ex. 107 at 79, Ex. 108 at 17.) This child is the only one who exists at the time of Cinque's kidnapping. That is the appropriate comparison. At the time of Cinque's kidnapping, the other two "children" in <u>Echo of Lions</u> are a fetus in the womb of one wife and another child he fathered during his last night in Mende with another wife. |

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| | | The historical Cinque told Covey that he had three children – one son and two daughters. (Shaeffer Supp. Decl., Ex. D, Barber, at 9.) He could not have supplied information as to the gender of two fetuses. |
| 5. Cinque is kidnapped on the road on his way home from his cousin's trial. (pp. 22-23) | Cinque is kidnapped on the road on his way home from the rice fields. (p. 13-14) | Similarity arises from historical fact: Cinque testified at trial that "he was taken in the road where he was at work." (Shaeffer Decl., Ex. 67.) |
| 6. Cinque is marched in caravan to Don Pedro Blanco's slave factory at Gallinas Bay and sold to Don Pedro Blanco. (pp. 29-31) | Cinque, with other captured slaves, treks through the jungle to Gallinas Bay and then by canoe to Don Pedro Blanco's slave factory near Gallinas Bay and is sold to Don Pedro Blanco. (p. 5) | Similarity arises from historical fact: Cinque and his kidnapers marched ten days to Lombok. (Shaeffer Supp. Decl., Ex. H, Mary Cable, <u>Black Odyssey</u> ("Cable") at 52.) |
| 7. Spanish slaver, Don Pedro Blanco, "always dressed in immaculate white." (p. 310) | Don Pablo "fresh and cool in clean white cottons," (p. 20) Don Pedro Blanco, "his cottons white." (p. 24) | Similarity arises from historical fact and scène a faire. Cinque and the other Amistaders were taken to Don Pedro Blanco's slave colony. (Shaeffer Supp. Dec., Ex. H, Cable at 51-52.) |

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| | | "Blanco" means "white," and white is the preferred color to wear in tropical climates. |
| <p>8. The slave factory was "the largest and most solid edifice Senghe Pieh had ever seen. It loomed stories above him, the heavy log fortresses seeming as impregnable and impossible to unlatch as the bolt-lock carbines of the caravan's guards." (p. 32)</p> <p>"The Barracoons themselves were made of rough logs driven five feet into the ground and clamped together by double rows of iron bars. The roofs were constructed of wood and overlaid with long, wiry grass." (p. 31)</p> | <p>"Its walls were of logs driven deep into the mushy earth too deep for Cinque to hope he could dig his way out. They extended high into the air, presenting a polished surface too slick for him to climb. They were lost in a thatched roof that kept out sun and rain." (p. 11)</p> | <p>Not similar.</p> <p>John W. Barber notes that in Africa roofs "are thatched with leaves." (Shaeffer Supp. Decl., Ex. D, Barber at 27.)</p> |
| <p>9. Senghe Pieh taken to <i>Tecora</i> in long boat. (p. 33) Pedro Blanco's "sixty manned war canoes" take slaves to ships. (p. 37)</p> | <p>Cinque taken to <i>Tecora</i> by canoe. He counts twenty canoes with captives rowing out to the schooner. (pp. 20-24)</p> | <p>Scène a faire.</p> <p>Transportation to a boat waiting offshore is via a smaller boat.</p> |
| <p>10. A row of narrow boards were set between two decks laid in wood, cutting the space into less than four feet</p> | <p>"[T]his hold was no more than four feet high." (p. 26)</p> | <p>Similarity arises from historical fact:</p> <p>Kimbo and Grabuang described the <i>Tecora</i></p> |

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| <p>between the bodies on the bottom slave deck and the planks. Each man had five feet five inches in length and sixteen inches in width in which to lie or sit up. (pp. 41-42)</p> | | <p>to the court: "[t]he space between decks was so small . . . not exceeding four feet . . . that they were obliged, if they attempted to stand, to keep a crouching posture." (Sheaffer Decl., Ex. 39; <u>see also</u> Shaeffer Supp. Decl., Ex. D, Barber at 19, 20.)</p> |
| <p>11. <i>Tecora</i> sails into a storm to evade the <i>Buzzard</i>. (p. 44)</p> | <p>While on the <i>Tecora</i>, a storm lasts two days. (p. 30)</p> | <p>Not similar.</p> <p>Scène a faire. Typical for drama for ships on high seas to weather storms.</p> |
| <p>12. Slaves and crew dead from smallpox thrown into the sea. (p. 59)</p> | <p>Cinque and Burnah required to throw dead African boy into sea. (p. 32) "More captives died, and their bodies were slipped naked into the sea." (p. 34)</p> | <p>Similarity arises from historical fact and scene a faire:</p> <p>Many of the Africans died during the voyage from Africa. (Shaeffer Supp. Decl., Ex. D, Barber at 19; Shaeffer Supp. Decl., Ex. H, Cable at 52.)</p> <p>It is scène a faire to throw the dead bodies overboard. It is an historical fact that the Africans threw the bodies of Celestino and Captain Ferrer overboard after the uprising on the <i>Amistad</i>. (Shaeffer Supp. Decl., Ex. D, Barber at 8.)</p> |

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| <p>13. "[S]hark-infested waters" around <i>Tecora</i> in Gallinas Bay. (p. 38)</p> | <p>"Cinque thought of the sharks circling the ship and began hoping to reach Cuba." (p. 33)</p> <p>"Now a school of sharks followed the schooner day and night, their great fins cutting the water, their horrible mouths opening to gash castoff bodies." (p. 34)</p> | <p>Scène a faire.</p> <p>Sharks inhabit tropical waters.</p> |
| <p>14. Captain is thinking about when Captain Homans of the <i>Brillante</i> was cornered by British naval boats: He brought the slaves on deck and chained them to the anchor, then threw anchor overboard so that no slaves on board when captured by British; a "confused wail of iron links and human cries" arises as anchor is loosed.</p> <p>System was later "refined" so that slaves are attached to "heavy iron ball" and could be dropped out of a trap door without having to bring them on deck. (p. 37)</p> | <p>"The Spanish sailors' orders were plain. If an English vessel appeared to be overtaking them, they were to herd the captives on deck and make them leap into the water. If they had time, they were to weigh them with irons. If they did not -well, sharks would destroy evidences of slavery anyway . . ." (p. 33)</p> | <p>Similarity arises from historical fact. Defendant admits as much in its Points and Authorities in Opposition to Motion for Preliminary Injunction at 30.</p> |
| <p>15. Dr. Robert Madden, the Queen's former</p> | <p>Dr. Richard Madden, a member of the</p> | <p>Similarity arises from historical fact:</p> |

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| <p>high commissioner to suppress Slavery in Jamaica, has meeting with Nicholas Philip Trist, the United States Consul in Havana, thinking to ask for the intervention of the ship <i>Boston</i>, by the American patrol in the harbor. (pp. 63-64)</p> | <p>Mixed Commission at Havana, has meeting with Nicholas P. Trist, the United States Consul to Havana to seek his assistance in stopping the importation of bozal Africans into Cuba. (pp. 46-47)</p> | <p>Dr. Robert Madden, the Queen's former high commissioner to suppress Slavery in Jamaica, vociferously protested the involvement of Nicholas Philip Trist, the United States Consul in Havana, in the importation of Bozal Africans into Cuba. (Shaeffer Supp. Decl., Ex. H, Cable at 61-63.)</p> |
| <p>16. <i>Tecora</i> lands in Cuba. (pp. 60-61)</p> | <p><i>Tecora</i> lands in Cuba. (p. 37)</p> | <p>Similarity arises from historical fact:</p> <p><i>Tecora</i> lands in Cuba. (Shaeffer Supp. Decl., Ex. D, Barber at 19. <u>See also</u> Declaration of Clifton H. Johnson at ¶ 6; Declaration of Professor Howard Suber at ¶ 31.)</p> |
| <p>17. Dr. Madden is present at Misericordia corral when Cinque and the other Africans from the <i>Tecora</i> are there. (pp. 67, 71)</p> | <p>Dr. Madden is present in the spectator stands at the Misericordia corral when Cinque and the other Africans from the <i>Tecora</i> are there. (pp. 47-48)</p> | <p>Similarity arises from historical fact:</p> <p>Dr. Madden was present in Havana at the time the Africans from the <i>Amistad</i> were at the Misericordia corral, and verified in person at the Mesericordia corral that the Africans were Bozals recently brought to Havana. (Shaeffer Decl. Exs. 48, 54; <u>Amistad</u>, 40 U.S. at 535; <u>see also</u> Shaeffer</p> |

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| | | Supp. Decl., Ex. D, Barber at 18.) |
| 18. Captives taken to the Misericordia corral. (p. 69) | Captives taken to the Misericordia corral. (p. 42) | Similarity arises from historical fact: Captives taken to the Misericordia corral. (Shaeffer Decl. Exs. 48, 54; <u>Amistad</u> , 40 U.S. at 535. <u>See also</u> Declaration of Clifton H. Johnson at ¶ 6; Declaration of Professor Howard Suber at ¶ 31.) |
| 19. "The crowd included numerous Cuban ladies shopping for slaves." (p. 68) | 19. Going into the corral, the captives see "Spanish ladies richly dressed." (p. 42) | Scène a faire. |
| 20. "Sengbe, Grabeau and Burnah stood blinking in the bright sunlight." (p. 69) | Morning in Cuba . . . morning of bright sunlight and sweet-smelling air . . ." (p.38) | Not similar. |
| 21. Burnah is a Mende. (pp. 68, 120) | Burnah is a Mende. (p. 16) | Similarity arises from historical fact: Burnah is a Mende. (Shaeffer Supp. Decl., Ex. D, Barber at 10.) |
| 22. Sengbe and Burnah "stayed close together, looking for a chance to escape." (p. 69) Also states, of Sengbe: "As his strength | Burnah and Cinque talk to a Creole slave serving food and water to get information on what is going on. (pp. 43-44) Cinque "made the rounds of the | Scène a faire. The uprising on the <i>Amistad</i> clearly demonstrates that Cinque was looking for a way to escape. <u>See Alexander v. Haley</u> , 460 |

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| returned, his mind filled with hundreds of plans for escape . . ." (p. 70) | barracoon . . . searching for a place of escape." (p. 45) | F.Supp. 40, 15 (D.C.N.Y. 1978) (scène a faire for story of slavery to include attempts to escape.) |
| 23. Ruiz buys 49 Africans to be slaves. (p. 73) | Ruiz buys forty-nine Africans to be slaves for \$450 each. (p. 50) | Similarity arises from historical fact: Ruiz bought 49 Africans to be slaves. (Shaeffer Decl., Ex. 26; Shaeffer Supp. Decl., Ex. D, Barber at 6.) |
| 24. Slaves given fictitious names - Sengbe is named Joseph Cinque. (pp. 74-75) | Slaves given new Spanish names by Ruiz - including "Joseph Cinque." (p. 50) | Similarity arises from historical fact: Slaves given fictitious names - Sinkwe [Cinque] is named Joseph. (Shaeffer Decl., Ex. 26.) |
| 25. As the Africans are to marched from the Misericordia to the <u>Amistad</u> , Cinque is astonished at the size of the stone architecture and marvels at the beauty of the sculpted figures. "The late afternoon sun struck the high white spires of the Cathedral of Havana." (p. 74) | As the Africans are marched to the Misericordia: "marched past the village and skirted the walls of Havana, the Africans chattering excitedly about the wonders spread before them. (p. 42) Describes the Governor General's palace as: "dazzlingly white above the mixed reds and blues of the common dwellings" (p. 43) | Not similar. |

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| | When the Africans see the horse-drawn carriages with footmen: "captives stared back with open-mouthed admiration. They'd never seen such splendor." (p. 42) | |
| 26. Senghe Pieh and others taken to <i>Amistad</i> , captained by Jose Ferrer. (pp. 74-75) | Marched on to the <i>Amistad</i> captained by Ramon Ferrer; another slaver, Montes, joins the ship with four African children. (p. 51) | Similarity arises from historical fact: The Africans are taken to the <i>Amistad</i> captained by Jose Ferrer. (Shaeffer Supp. Decl., Ex. D, Barber at 6.) |
| 27. Crew of the <i>Tecora</i> : "Antonio Ferrer, a mulatto cabin boy; Celestino Ferrer, the octoroon cook; Rojo, a young sailor whose real name was Jacinto Verdagne but whose nickname 'Red' described the color of his hair and the rose of his complexion. There was another older sailor, Manuel Pagilla, who was so dark he could himself have been an African." (p. 75) | Crew of the <i>Tecora</i> : Antonio Gonzalez, a "Creole slave boy" (pp. 51, 55), Celestino Ferrer the "mulatto slave of the captain," two sailors, one called "Vicente," the other "Jacinto Verdagne" was called "El Rojo" by the Spaniards, "The Red one; red he was in contrast to the dark skin and the black hair of companion Vicente." (p. 54) | Similarity arises from historical fact: The crew of the <i>Tecora</i> consisted of Captain Ferrer, Celestino Manual Pagilla and Jacinto. (Shaeffer Decl., Ex. 26; Shaeffer Supp. Decl., Ex. D, Barber at 7.) We are still searching the historical record for the other elements in this similarity. |
| 28. "[E]vil-looking, green-eyed man with thick, kinky blond hair and a fat belly" -- the cook -- "grinned viciously at them." (p. 75) | "[W]ith his hands, the Creole cook told them that when they arrived at Puerto Principe, they would have their throats cut, be chopped to pieces, and salted | Similarity arises from historical fact: "[T]he cook told them that when they reached land they would all be eaten." |

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| Cook mimes "act of killing Burnah, salting him down and eating him." (p. 79) | down for meat for the Spaniards." (p. 62) | (Shaeffer Decl., Ex. 39.) Cinque stated in an affidavit that the white men intended to eat them when they landed. (Shaeffer Decl., Ex. 44.) The cook told the Africans that "they would have their throats cut and be chopped in pieces and salted down as meat for the Spaniards. He pointed to some barrels of beef, then to an empty barrel, and 'by talking with his fingers' (as the Africans said) made them understand what lay in store. " (Shaeffer Supp. Decl., Ex. H, Cable at 53.) |
| 29. "For ten dollars a head passports were issued for Don Ruiz's slaves." (p. 75) | "Then he came to the captives with paper" in his hand--a <i>trespaso</i> for forty-nine <i>ladino</i> negroes ... Negroes who had been landed ten days before as <i>bozales</i> were now by the papers legally <i>ladinos</i> , Negroes domiciled in Cuba since before the Treaty of 1820. This change had been wrought at a cost of ten dollars each." (p. 50) | Similarity arises from historical fact: The Spanish authorities in Cuba received \$10 per head on each African Bozal brought to Cuba. (Shaeffer Decl., Ex. 26; <u>Amistad</u> 40 U.S. at 537; Shaeffer Supp. Decl., Ex. D, Barber at 18.) |
| 30. Remember (Fabanna) finds nail on deck of slave ship and hides it under | Cinque finds loose nail; hides in armpit. (p. 62) | Similarity arises from historical fact: |

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| <p>his arm. A blacksmith, Sessi, picks the lock that chains all the slaves together, thereby releasing them. (p. 79)</p> | <p>Cinque picks the locks and frees himself from chains and iron collar. (p. 64)</p> | <p>Cinque found a nail on deck which he hid under his armpit. With the aid of the nail, he "broke the chain that fastened them all to the wall." (Shaeffer Supp. Decl., Ex. D, Cable at 53.)</p> |
| <p>31. Slaves escape, find 6 boxes of sugarcane knives (call them cutlasses or machetes interchangeably) in the forecabin. Knives are "an inch thick with a blade 2 feet long . . . widening to width of 3 inches at end." (pp. 79-80)</p> | <p>Take cane knives (machetes) from cargo hold. Knives have "32-inch blades and metal grips." (p. 64).</p> | <p>Similarity arises from historical fact: The Africans find cane knives in the hold. (Shaeffer Supp. Decl., Ex. H, Cable at 53.)</p> |
| <p>32. Celestino, the cook, dies first (Cinque kills him with his machete); noise awakens Captain Ferrer. (p. 80)</p> <p>Captain kills Solitary (Cinque's brother-in-law). (p. 80)</p> | <p>Captain Ferrer is awakened by the noise; he throws Celestino, the Creole cook, in front of him. Cinque kills Celestino with his machete. (p. 66)</p> <p>Then Ferrer slashes Seme & Cubah. (p. 66)</p> | <p>Similarity arises from historical fact: "All of us [Montaz, Ruiz, Ferrer, crew] were asleep except the man at the helm." They were awakened by a noise. (Shaeffer Decl., Ex. 26; Shaeffer Supp. Decl., Ex. D, Barber at 6.) Cinque killed the cook first. (Shaeffer Decl., Ex. 67; Shaeffer Supp. Decl., Ex. H, Cable at 37, 53.)</p> <p>Captain Ferrer kills one African and wounds two others. (Shaeffer Supp. Decl., Ex. H, Cable at 53.)</p> |

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| 33. Captain screams "throw them some bread." (p. 80) | Captain says: "Go get some bread and throw it to them." (p. 66) | Similarity arises from historical fact: Ruiz "heard the captain order the cabin boy to go below and get some bread to throw at them, in hopes to pacify the negroes." (Shaeffer Decl., Ex. 26; Shaeffer Supp. Decl., Ex. D, Barber at 7; <u>see</u> Shaeffer Supp. Decl., Ex. H, Cable at 14.) |
| 34. Cinque fights with Captain Ferrer, kills him (splits his head in two). (80) | Captain Ferrer fights with other Africans, then with Cinque, who kills him (splits head open). (66) | Similarity arises from historical fact: Captain Ferrer kills one African and wounds two others. (Shaeffer Supp. Decl., Ex. H, Cable at 53.) Four Africans strike the Captain a number of times in the head with sugar cane knives. (Shaeffer Supp. Decl., Ex. D, Barber at 7-8.) |
| 35. Two sailors flee and jump overboard. One African is killed "trying to prevent one of the white sailors from jumping overboard. They cannot catch land. They have swum to the bottom of the sea." (pp. 80-81) | The two Spanish sailors flee, the Africans rush after them, but they are gone: "' they cannot reach land--they must have swum to the bottom of the sea,' they consoled each other at first." (pp. 66-67) | Similarity arises from historical fact: Two of the sailors escape. (Shaeffer Decl., Ex. 26; Shaeffer Supp. Decl., Ex. D, Barber at 7, 8; Shaeffer Supp. Decl., Ex. H, Cable at 7-8.) Kin-na stated that the two sailors "could not |

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| | | catch land, they must have swum to the bottom of the sea." (Shaeffer Supp. Decl., Ex. H, Cable at 53.) |
| 36. "Don Montez came topside armed with a club and a knife, but found himself face to face with Remember. One slash of the dark man's machete was only half parried by Montez and gashed his head, almost severing an ear. A second blow ripped open his arm, and the Cuban fled for his life, dropping his weapons. Desperately, he threw himself behind a crumpled sail and pulled Celestino's beef barrels in front of it to hide himself." (p. 80) | "Montes, who had armed himself with a stick and a knife, did not understand Cinque and attacked him. Faquanah sprang at Montes and slashed him with a sugar cane knife. Montes, begging for help, ran below. He hid himself between two barrels, wrapped up in a sail." (p. 67) | Similarity arises from historical fact: Montez was awakened by a noise. He went on deck and seized a knife and another weapon. An African wounded him on the head severely and on the arm with one of the sugar cane knives. He then ran down below and stowed himself between two barrels wrapped up in a sail. (Shaeffer Decl., Ex. 26; Shaeffer Supp. Decl., Ex. D, Barber at 7; Shaeffer Supp. Decl., Ex. H, Cable at 15.) |
| 37. Ruiz, Montez and Antonio survive the mutiny. Montez is instructed to navigate the boat back to Africa. Montez says he can't do it, that he hasn't sailed a boat in years. (p. 81) | Ruiz, Montes and Antonio survive the mutiny. Montes is instructed to navigate the ship back to Africa. Montes knows how to sail. (p. 72) | Similarity arises from historical fact: Ruiz and Montez survive the mutiny. "Their lives were spared for the sake of navigating the vessel." (Shaeffer Decl., Ex. 19.) Antonio also survived. (Shaeffer Decl., Ex. 19; Shaeffer Supp. Decl., Ex. D, Barber at 7.) |

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| | | The Africans commanded Montez to steer for Africa. He told them he did not know the way, but he did know how to sail. (Shaeffer Decl., Ex. 26; Shaeffer Supp. Decl., Ex. D, Barber at 7; Shaeffer Supp. Decl., Ex. H, Cable at 15-16.) |
| 38. "Once more we point the canoe into the sunrise. . . . Sengbe Pieh charts our way home by the familiar and changing shadows on deck. He tells Montez to aim the canoe where it must go for he sees that here, as on land, moving is a matter of reading the sun." (p. 82) | "Cinque remembered all the days of sailing away from the sun when they left Africa. To return, they had to sail into the sun." (p. 68) | Similarity arises from historical fact: "The negroes desired to return to their own country, but of the course to be pursued for that end they and their leader understood no than that it lay eastward. Early each morning they themselves took the helm and steered in the direction of the rising sun, that is eastward, or compelled Montez to take that direction" (Shaeffer Decl., Ex. 19.) |
| 39. "Sengbe Pieh commands the old man to take charge of the canoe and swim it home. He refuses. Sengbe Pieh draws his machete and holds it to his throat. The old man surrenders. The canoe points towards the sun, from whence we have come." (p. 83) | "Again Montes shook his head. But when Cinque held the Captain's rapier to his throat, Montes agreed to steer for Sierra Leone." (p. 68) | Similarity arises from historical fact: Antonio testified that Cinque threatened to kill Montes. (Shaeffer Supp. Decl., Ex. H, Cable at 73.) |
| 40. "The two white men we put in irons | "'You say fetters good for nigger,' he said. | Similarity arises from historical fact: |

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| <p>and place in the slave deck, saying, 'You say irons are good enough for Mende men, then they are good enough for white men.'" (p. 82)</p> | <p>'If good for nigger, good for Spanish man too; you try them two days and see how you feel. You learn how it is to be slaves.'" (p. 67)</p> | <p>According to Kin-na, Cinque said to Ruiz and Montes: "You say fetters good for Negro; if good for Negro, good for Spanish man, too; you try them two days and see how they feel." (Shaeffer Supp. Decl., Ex. H, Cable at 54.)</p> |
| <p>41. "We give them one cup of water a day, saying, 'You say one cup of water is good enough for Mende men, then it is good enough for the white men.'" (p. 82)</p> | <p>"Then he dipped water for them, dealing it out to the Spaniards in the same little cup that had been used for the blacks. Ruiz and Montes complained bitterly of being thirsty. Cinque said to them, 'You say little water enough for nigger; if little water do for him, a little do for you too.'" (p. 75)</p> | <p>Similarity arises from historical fact: Cinque told Ruiz and Montes: "You say little water enough for nigger; if little water do for him, a little do for you, too." (Shaeffer Supp. Decl., Ex. H, Cable at 54)</p> |
| <p>42. Running low on water, the Africans go ashore to fill their casks but are ambushed and have to flee without water. They pass another island and go ashore a second time. This time they are successful and fill their casks. (p. 84)</p> | <p>Running low on water, the Africans go ashore at Andros Island to fill their casks. They begin filling their casks, but are startled by musket fire and flee with only one cask of water. They later go ashore again at Green Key and fill their casks. (pp. 76-77)</p> | <p>We are still searching the historical record for this similarity.</p> |
| <p>43. "Singbe Pieh has lost the way to Mendeland and he himself has turned</p> | <p>While adrift near Long Island: "All eyes were fixed on Cinque, but the sympathy</p> | <p>Not similar.</p> |

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| into more of a white devil than the white devils we are fleeing." (p. 87) | was greatly with Konoma. Who among them would not beg rescue from this hellish voyage? this devil in the shape of their tribesman?" (p. 87) | |
| 44. <i>Amistad</i> reaches harbor off Montauk Point. (p. 89) | <i>Amistad</i> anchors off Culloden Point." (p. 88) | Similarity arises from historical fact: The <i>Amistad</i> anchors off Culloden Point (Shaeffer Decl., Exs. 2, 84; <i>Amistad</i> , 40 U.S. at 529-30; Shaeffer Supp. Decl., Ex. D, Barber at 3, 5.) |
| 45. Longboard lowered with water kegs; Antonio, Python (Fooni), Twin (Burnah) go in boat, Cinque stays behind. (p. 91) They buy two dogs, potatoes, rum and water with Spanish doubloons. (pp. 92-93) | A boatload goes ashore and brings back water and potatoes. (p. 89) | Similarity arises from historical fact: Fordham and Greene (or according to Cable, some unidentified persons) sold the Africans provisions, including water, two dogs, gin and bread. (Shaeffer Decl., Ex. 55; Shaeffer Supp. Decl., Ex. D, Barber at 5; Shaeffer Supp. Decl., Ex. H, Cable at 6.) |
| 46. Second party goes ashore including Cinque and Burnah. (p. 93) | The next day, a second party (two boatloads) goes ashore, including Cinque, Antonio and Burnah. They buy two dogs and rum with Spanish doubloons. (pp. 91-93) | Similarity arises from historical fact: Two trips are made on the same day (August 26, 1839) from the <i>Amistad</i> to the Long Island shore. (Shaeffer Supp. Decl., Ex. H, |

| <u>ECHO OF LIONS</u> | <u>BLACK MUTINY</u> | RESPONSE |
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| | | Cable at 6.) |
| 47. Joseph Cinque and Twin [aka Burnah] speak with Captain Greene on shore. They try to communicate that they want him to sail them back to Africa. (pp. 94-95) | Cinque and Burnah speak with Captain Greene on shore. They try to communicate that they want him to sail them back to Africa. (pp. 94-95) | Similarity arises from historical fact: Cinque and Burnah speak with Captain Greene on shore. They try to communicate that they want him to sail them back to Africa. (Shaeffer Decl., Ex. 67; <u>see also</u> Shaeffer Supp. Decl., Ex. H, Cable at 6.) |
| 48. Cinque sees the <i>Washington</i> from shore. (p. 98) | From shore, see the U.S. Navy brig bearing down on <i>Amistad</i> . (p. 96) | Similarity arises from historical fact: Cinque testified at trial that he was on shore when the <i>Washington</i> approached the <i>Amistad</i> . (Shaeffer Decl., Ex. 67.) |
| 49. The <i>Washington</i> , a brigantine in the U.S. Coast Guard, draws abreast of the <i>Amistad</i> ; Lt. Thomas R. Gedney in command. Montes bursts into tears; he and Ruiz tell story to Gedney and his second in command, Lt. Richard Meade. (p. 98) | It's the <i>Washington</i> , Lt. T.R. Gedney in command, Lt. Meade in charge of boat that boards <i>Amistad</i> . Ruiz runs on deck. He tells Meade the Africans are his slaves; they have risen and taken the vessel. Ruiz takes Meade below where they find Montes crouched behind barrels, fearing for his life. Montes rushes to Meade crying. (p. 97) | Similarity arises from historical fact: The brig <i>Washington</i> draws abreast of the <i>Amistad</i> with Gedney in charge and Lt. Meade on board. Ruiz and Montez tell their story. Mr. Montez throws his arms around Meade "gushing tears of delight." (Shaeffer Decl., Ex. 2; <u>see also</u> Shaeffer Supp. Decl., Ex. H, Cable at 7.) |
| 50. "Cinque lunged, and as if expecting his | "Gathering as much speed as he could, | Similarity arises from historical fact: |

| <u>ECHO OF LIONS</u> | <u>BLACK MUTINY</u> | RESPONSE |
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| <p>men to follow him, climbed up onto the bridge and, dodging bullets and ignoring commands to come down, plunged into the sea, diving beneath its surface for minutes at a time. Yet each time he rose to the surface he saw that his men had not followed him and he looked towards the beach, or dove beneath the waters, as if scouting a path towards shore (p. 99)</p> | <p>[Cinque] ran up the ladder, leapt out the main hatch, and at a bound was over the side, in defiance of the shouts of 'Halt!' the whites flung at him. He landed in the water and let himself down he until he was sure he was hidden from their bullets. Then he began swimming for shore as fast as he could. . . . He dived again and again shoreward as long as his breath held. . . . Diving for safety, to shut out their voices, he gradually worked his way toward shore." (p. 99)</p> | <p>"Lieuts. Porter and Meade . . . disarmed the negroes and took the schooner in tow. Joseph [Cinque] on seeing this, went below, and tied some gold about his person, he leaps of the main hatch and at one bound was over the side. Then under the water, he disengaged the doubloons and rose up about 100 yards from the vessel, having been under water at least 5 minutes. The boat was already manned and sent in to chase of him. When it neared him, he would stop, but just as it came within reach he would dive down and come up again some yards behind her stern. He thus employed them . . . 60 minutes, when, seeing further attempts useless, he gave himself up." (Shaeffer Decl., Ex. 24; <u>see also</u> Shaeffer Supp. Decl., Ex. H, Cable at 8.)</p> |
| <p>51. "Cinque swam until his lungs were bursting, his body weighed down by the doubloons. After an hour's pursuit by Gedney's furious men he saw he could not escape. He loosened the belt and abandoned the gold to the sea. . . . He was dragged back to the</p> | <p>"Forty minutes in the water, forty minutes of bursting lungs and searing head pains-- his strength failed and he knew the struggle was hopeless.. . . Determined that they would not get his Spanish doubloons, he loosened his belt and let it sink to the bottom of the Sound. Then he</p> | <p>Similarity arises from historical fact: Cinque leaped into the water with 300 doubloons "which he succeeded in loosing from his person." He was dragged back to the <i>Washington</i> by a boathook. (Shaeffer Decl., Ex. 2; Shaeffer Supp. Decl., Ex. D,</p> |

| <u>ECHO OF LIONS</u> | <u>BLACK MUTINY</u> | RESPONSE |
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| <i>Washington</i> by boathook." (pp. 99-100) | surfaced again and allowed his white captors to drag him in with a boathook." (pp.99-100) | Barber at 4; Shaeffer Supp. Decl., Ex. H, Cable at 8; <u>see also</u> Response 50.) |
| 52. Gedney sends <i>Washington</i> with <i>Amistad</i> in tow across Long Island Sound to New London. (p. 100) | Gedney and Meade remove <i>Amistad</i> to New London. (p. 102) | Similarity arises from historical fact: The schooner is taken in tow to New London. (Shaeffer Decl., Ex. 2; Shaeffer Supp. Decl., Ex. D, Barber at 4; Shaeffer Supp. Decl., Ex. H, Cable at 9; <u>Amistad</u> , 40 U.S. at 529.) |
| 53. Judge Andrew T. Judson commits the Africans for trial for "murder on the high seas and piracy" and commits Antonio and the four children as witnesses. (p. 101) | Judge Andrew T. Judson commits the Africans to stand trial in the circuit court on the charge of "murder and piracy" and the libels on them as property; and commits Antonio and the four children to jail as witnesses. (pp. 134-35) | Similarity arises from historical fact: Judge Andrew T. Judson commits the Africans for trial for "murder and piracy" and places the three girls and Anontio under bonds to appear and testify. (Shaeffer Decl., Ex. 2; Shaeffer Supp. Decl., Ex. D, Barber at 8.) |
| 54. The prisoners are transferred to jail in New Haven; they walk through town. All New Haven was on the green to watch the procession of the first Africans they had ever seen . . ." (pp. 100-02) | Cinque taken to jail in New Haven, walks through town. (p. 137). The next day, the rest of the Africans marched through town to jail: "Before church time the streets and Green were full of people . . . as they waited for the <u>Amistad</u> Africans | Similarity arises from historical fact: Public processions of the Africans attracted huge crowds. (Shaeffer Supp. Decl., Ex. H, Cable at 36-37.) |

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| | to come like a procession to the County House. . . . it was like a political rally or an auction ...'Here they come,' the crowds shouted. Cinque, curious by their excitement, crept close to the window and looked down Church Street. He joined the shouting when he saw his friends from the <u>Amistad</u> coming toward him." (pp. 141-42) | |
| 55. Cinque separated from other African captives; placed in cell with other prisoners. (pp. 106-07) | Cinque placed in cell with other, local (non-African) prisoners. (p. 139) Other Africans put in different cell. (p. 142) | Similarity arises from historical fact: Cinque is put in a cell separate from the other Africans. (Shaeffer Decl., Ex.3; Shaeffer Supp. Decl., Ex. D, Barber at 8.) "Cinque . . . was in irons and confined among the jail's regular complement of criminals." (Shaeffer Supp. Decl., Ex. H, Cable at 28.) |
| 56. Citizens line up to pay jailer a shilling for a look at the Africans. (p. 114) | Pendleton (jailer) charges a one-shilling fee to the public in order to see the prisoners. (p. 143) | Similarity arises from historical fact: A correspondent writes that he "went with some hundreds of others . . . to see the captives -- paying my York shilling (Shaeffer Decl., Ex. 3; <u>see also</u> Shaeffer |

| <u>ECHO OF LIONS</u> | <u>BLACK MUTINY</u> | RESPONSE |
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| | | Supp. Decl., Ex. H, Cable at 28.) |
| 57. Lewis and Arthur Tappan were two rich brothers, who co-founded the Anti-Slavery Society. (p. 105) | Lewis and Arthur Tappan, brothers and abolitionists, decide to support <i>Amistad</i> Africans. (p. 148) | Similarity arises from historical fact: Lewis and Arthur Tappan were two rich brothers, who were active in the Anti-Slavery Society and supported the <i>Amistad</i> case. (Shaeffer Supp. Decl., Ex. H, Cable at 21.) |
| 58. Tappan publishes <i>The Liberator</i> , an abolitionist newspaper (pp. 105-06) | The Tappans support the American Anti-Slavery Society. (p. 148) <i>The Emancipator</i> is the Association's newspaper. (p. 149) | Similarity arises from historical fact: Arthur Tappan helped underwrite the publication of <i>The Liberator</i> . (Shaeffer Supp. Decl., Ex. H, Cable at 23.) |
| 59. "Forsyth had actually heard Congressman Davy Crockett declare that the President could 'take a piece of meat on one side of his mouth, a piece of bread on the other, a cabbage in the middle and chew and swallow each in its severalty, never mixing them together. . . .'" (p. 133) | Tappan and Leavitt talk of President Van Buren. "He is the most cunning political trickster in our history. I agree with what Davy Crockett said of him: 'He could take a piece of meat on one side of his mouth, a piece of bread on the other, a cabbage in the middle, and chew and swallow each in its severalty, never mixing them together.'" (p. 150) | Davy Crockett had a pathological hatred of Martin van Buren. (See, e.g., David Crockett, <u>The Life of Martin van Buren Heir Apparent to the "Government"</u> , etc., Philadelphia, 1835. Still searching the historical record for the exact quotation. |
| 60. Secretary of State John Forsyth tells | Spanish envoy Angel Calderon de la | Similarity arises from historical fact: |

| <u>ECHO OF LIONS</u> | <u>BLACK MUTINY</u> | RESPONSE |
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| President Van Buren of irate letter from Spanish Ambassador Angel Calderon de la Barca. (p. 133) | Barca writes to Secretary of State John Forsyth. (p. 161) | Spanish envoy Angel Calderon de la Barca writes to Secretary of State John Forsyth. (Shaeffer Supp. Decl., Ex. D, Barber at 31; Shaeffer Supp. Decl., Ex. H, Cable at 23-26.) |
| 61. Theodore Sedgwick, Seth Staples & Roger Baldwin, abolitionist lawyers hired by <i>Amistad</i> Defense Committee. (p. 133) | Roger Sherman Baldwin approached by abolitionists to be chief counsel. (pp. 151-52) | Similarity arises from historical fact: Theodore Sedgwick, Seth Staples & Roger Baldwin, abolitionist lawyers, hired by <i>Amistad</i> Defense Committee. (Shaeffer Supp. Decl., Ex. H, Cable at 23, 26.) |
| 62. Josiah Willard Gibbs is the rector of Yale College Divinity School. (p. 105) Through daily visits to the captives daily, Gibbs learns to count to ten in Mende. (p. 109) | Professor Josiah Willard Gibbs of Yale College visits jail; learns to count to ten in Mendi by holding up his fingers and saying "one," two," etc. (pp. 144-45) | Similarity arises from historical fact: Professor Josiah Willard Gibbs, a Hebrew scholar and a philologist at Yale College visits jail; learns to count to ten in Mendi "one," two," etc. (Shaeffer Supp. Decl., Ex. H, Cable at 33-34.) |
| 63. Gibbs, in New York Harbor, tries to find African speakers by counting to ten in dialect. (p. 109) | Gibbs, in New Haven wharf, stops every "colored" person he sees, counting to ten in dialect. (p. 145) | Similarity arises from historical fact: Gibbs, in New York Harbor, tries to find African speakers by counting from one to ten in dialect. (Shaeffer Supp. Decl., Ex. H, |

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| | | Cable at 33-34.) |
| 64. Covey first introduced on the <i>Buzzard</i> (p. 48). Gibbs meets Covey in New York Harbor (p. 110). Covey describes himself as a "seaman." (p. 190) | A freed slave, John Ferry, identifies the language as Mendi. (p. 154) Later, Gibbs tries again in New York harbor and is told to check the British ship the <i>Buzzard</i> , where he finds James Covey a <u>Mendi</u> sailor. (pp. 193-94) | Similarity arises from historical fact: Gibbs meets Covey in New York Harbor. Covey describes himself as a "seaman." (Shaeffer Supp. Decl., Ex. H, Cable at 51.) |
| 65. Master of the <i>Buzzard</i> is Capt. Fitzgerald (p. 50). Fitzgerald agrees that Gibbs may enlist Covey's help (p. 110). | Master of the <i>Buzzard</i> is Captain Fitzgerald, who agrees that Gibbs may enlist Covey's help. (pp. 194-95) | Similarity arises from historical fact: Master of the <i>Buzzard</i> is Captain Fitzgerald, who agrees that Gibbs may enlist Covey's help. (Shaeffer Decl., Ex. 5; Shaeffer Supp. Decl., Ex. H, Cable at 51; <u>see also</u> Shaeffer Supp. Decl., Ex. D, Barber at 18.) |
| 66. Gibbs and Covey go to jail; Covey introduces himself by his African name, Kaweli; Cinque hesitates, then tears well in his eyes. (p. 117) Covey greets the men in Mende. The Africans "jumped, laughed and cried, called out questions, grinned, gripped | Gibbs goes to the jail with Covey. "But the Africans had seen James Covey standing in the passageway. They shouted to him in Mendi, and when he responded in their tongue, they began laughing and shouting like children. They rushed past Col. Pendelton and dragged Covey inside | Similarity arises from historical fact: James Covey's African name is Kaw wa -li which means War Road. (Shaeffer Supp. Decl., Ex. D, Barber at 15; Shaeffer Supp. Decl., Ex. H, Cable at 51.) "And another gentleman writes, 'We called |

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| <p>his hand, thumped his shoulder." (p. 116)</p> | <p>the cell, storming him with questions of home." (p. 198)</p> | <p>with them (the interpreters) at the prison this morning as the African captives were at breakfast. The marshal objected to the entrance of the interpreters until the breakfast was over, but one of the captives coming to the door and finding a countryman who could talk in their own language, took hold of him and literally dragged him in. Such a scene ensued which you may better conceive than I describe. Breakfast was forgotten; all crowded around the two men, and all talking as fast as possible. The children hugged one another with transport.'" (Shaeffer Decl., Ex. 5. <u>See also</u> Shaeffer Supp. Decl., Ex. D, Barber at 18; Shaeffer Supp. Decl., Ex. H Cable at 51 ["They leaped, shouted, clapped their hands."]).</p> |
| <p>67. Cinque tells other Africans' histories to Covey (pp. 117-27). Later, each man, including Cinque, tells own story to Covey (pp. 154-55).</p> | <p>Gibbs interrogates Cinque with Covey's assistance and gets full details of his story. (p. 198)</p> | <p>Similarity arises from historical fact: Covey testified that he spoke with each African one-by-one . (Shaeffer Decl., Ex. 54; <u>see</u> Shaeffer Decl., Ex. 39 for Grabuang's story as told to Covey.)</p> |

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| <p>68. James Covey speaks perfect English. Covey acts as interpreter for Cinque and the other Africans.</p> | <p>Covey speaks perfect English and reads as well as he speaks. (pp. 193-98) <i>Note: Defendant has distorted the text. Covey says he <u>writes</u> English as well as he speaks it.</i></p> <p>Covey acts as interpreter and assists lawyers and Tappan in getting details of Cinque's tale. (p. 198)</p> <p>Interprets for Cinque and other Africans in court. (pp. 230-31, 233-34)</p> | <p>Not similar.</p> <p>In <u>Black Mutiny</u>, James Covey speaks 6 lines and one short paragraph on pages 194 to 195. The 6 lines are: "James Covey," "Captain Fitzgerald. Will you speak to him?" "Yes, sir," "As well as I speak it [English]" and "Eighteen." It is not possible to assess his facility with the English language with such a small sampling.</p> <p>We see how well the historical Covey writes in a letter to the newspapers written by Covey on November 5, 1840 (Shaeffer Decl., Ex. 73): "I see little book sent to Jingua. I want two or three big book. I want big Bible-big Dictionary and Smith Geography. These I want carry along to Africa. My friends give me little book plenty. I want grammar of the English language. I love our Lord and Saviour Jesus Christ. I now member of the church two months, and very happy in my soul . . . " This is not excellent English. Defendant's expert, Clifton Johnson is wrong when he states alternatively, that Covey spoke</p> |

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| | | <p>excellent English, or Owens invented this trait in <u>Black Mutiny</u>.</p> <p>The historical James Covey spoke "the English dialect of Freetown, Kreo," and had difficulty understanding the lawyers' questions at trial: "The <i>Herald</i> objected that 'much time was wasted and great confusion produced' because the lawyers used language too difficult for Covey to understand. For example: 'James, tell him [Cinque] to detail minutely all the particulars relating to the manner of his captivity.' To which the response was, "Sir?" (Shaeffer Supp. Decl., Ex. H, Cable at 51, 71.)</p> <p>The James Covey of <u>Echo of Lions</u> does more than merely act as an interpreter. For example, in both <u>Echo of Lions</u> and the motion picture <u>Amistad</u>, Covey has dealings with John Quincy Adams, who is easily annoyed by him. This does not appear in <u>Black Mutiny</u>. (Shaeffer Decl., Ex. 107 at 115-119, Ex. 108 at 287, 294, 302.)</p> |
| 69. Writ of habeas corpus for release of | Later, Spanish seek from Holabird | Similarity arises from historical fact: |

| <u>ECHO OF LIONS</u> | <u>BLACK MUTINY</u> | RESPONSE |
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| <p>African children held in jail (pp. 152-53). Covey explaining to Cinque "<i>habeas corpus</i>: "they had petitioned . . ." (p. 152)</p> <p>At habeas hearings, before Circuit Court Judge Smith Thompson and District Court Judge Andrew Judson, writs also brought on behalf of Gedney, Captains Green and Fordham (also claiming salvage rights), Ruiz and Montes, two Cuban merchants claiming certain merchandise from the <i>Amistad</i> and the Minister of Spain (Calderon) (pp. 160-61).</p> <p>Thompson rules no jurisdiction (pp. 168-69)</p> <p><i>Note: Defendant's summary is not correct. In <u>Echo of Lions</u> the libels (not writs) were filed at various times, including before the habeas hearing.</i></p> | <p>immediate return of ship and all cargo, including Africans (pp. 165-66); Baldwin seeks habeas corpus writ (p. 167); later Baldwin is asked to prepare separate writ for children (p. 174); further salvage claim is made by Captain Green, Gedney & Meade (p. 175).</p> <p>Hearing takes place before Circuit Court Judge Thompson (p. 175); Thompson rules Court has no jurisdiction over issue. (pp. 186-87)</p> | <p>Writ of habeas corpus for release of the four African children from jail. (Shaeffer Decl., Ex. 4.)</p> <p>Claims are made by Gedney (salvage) Greene and Fordham (salvage), Ruiz and Montez, the minister of Spain on behalf of the Queen of Spain and Tellinacas, Apse and Laca (Cuban merchants claiming certain merchandise). (Shaeffer Decl., Exs. 4, 36, 65; <u>Amistad</u>, 40 U.S. 521-527; <u>see also</u> Shaeffer Supp. Decl., Ex. D, Barber at 16.)</p> <p>Thompson rules no jurisdiction. (Shaeffer Decl., Exs. 4, 36; Shaeffer Supp. Decl., Ex. D, Barber at 16; <u>see also</u> Shaeffer Supp. Decl., Ex. H, Cable at 41.)</p> |
| <p>70. Margru a "beautiful child . . . about seven or eight." (p. 127)</p> | <p>Marghru "a little girl" on <i>Amistad</i>. (pp. 52, 142, 288)</p> | <p>Similarity arises from historical fact:</p> |

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| | | Marngroo [Margru] a little girl, between 7 and 9. (<u>See</u> Shaeffer Decl., Exs. 7, 9.) |
| <p>71. District Court finds that <i>Amistad</i> Africans are from Africa and not slaves. (p. 205)</p> <p>Judson orders that Africans be returned by the President to Africa. (pp. 214-15)</p> <p>Holabird moves to appeal to Circuit Court; Judson denies -- affirming District Court; Holabird then moves to appeal to Supreme Court; Judson allows (pp. 215-16)</p> | <p>District Court finds that Africans were illegally imported from Africa. (p. 237)</p> <p>Judson orders that Africans be returned to Africa by the President. (p. 238)</p> <p>Judge Thompson on appeal upholds District Court decision in Circuit Court. (p. 245)</p> | <p>Similarity arises from historical fact:</p> <p>District Court finds that <i>Amistad</i> Africans are from Africa and not slaves.</p> <p>Judson orders that Africans be returned by the President to Africa.</p> <p>Holabird moves to appeal to Circuit Court; Judson denies -- affirming District Court; Holabird then moves to appeal to Supreme Court; Judson allows. (Shaeffer Decl., Exs. 7, 55; <i>Amistad</i>, 40 U.S. at 527-532; Shaeffer Supp. Decl., Ex. D, Barber at 23-24). <i>Note: Shaeffer Decl., Ex. 55 contains the text of Judson's opinion.</i>)</p> |
| <p>72. William Holabird, United States District Attorney, moves to appeal decision to Supreme Court on behalf of President in pursuance of claim by Queen Isabella. (p. 216)</p> | <p>William Holabird, United States District Attorney, under instructions from Van Buren and Forsyth, appeals case to Supreme Court. (p. 245)</p> | <p>Similarity arises from historical fact:</p> <p>William Holabird, United States District Attorney, moves to appeal decision to Supreme Court on behalf of President in pursuance of claim by Queen Isabella. (<i>Amistad</i>, 40 U.S. at 524, 532.)</p> |

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| 73. Lewis Tappan, Joshua Leavitt and Baldwin ask Adams in person to take case before Supreme Court. (p. 233) | Lewis Tappan and Ellis Gray Loring visit Adams to ask him to take case before Supreme Court. (p. 249) | Similarity arises from historical fact: Lewis Tappan and Ellis Gray Loring visit Adams to ask him to take case before Supreme Court. (Shaeffer Supp. Decl., Ex. H, Cable at 79-80.) |
| 74. Adams decides to take case. (p. 239) | Adams agrees to take case. (p. 251) | Similarity arises from historical fact: Adams decides to take case. (Shaeffer Decl., Ex. 70.) |
| 75. Cinque meets Adams. (p. 287) | Cinque meets Adams. (p. 253) | Not similar. The meeting is recorded in Adams memoirs. Owens copies Adams version of the meeting. But the expression of that meeting is different in <u>Echo of Lions</u> . In <u>Black Mutiny</u> , the meeting is described as "a meeting of primitive man and the finest product of civilization." Cinque and Adams do not speak with each other. Adams surveys the Africans and asks if "the two light ones," "[t]he two that are almost |

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| | | <p>mulatto bright" learn "better than the others." The jailer responds in the negative. Then Adams pats the "fleece" of one of the Africans, and departs. (Shaeffer Supp. Decl., Ex. L, <u>Black Mutiny</u> at 253-254. Owens follows Adams' description. (Shaeffer Supp. Decl., Ex. B, Adams Memoirs at 360.)</p> <p>In <u>Echo of Lions</u>, the meeting is expressed as "a conversation between America and Africa, not between the Republic and a slave" (Shaeffer Decl., Ex. 208 at 296) in which Adams shows great respect for Cinque. (<u>Id.</u> at 287-302.) They have a conversation about the case (<u>Id.</u>, at 287-302).</p> |
| <p>76. "John Quincy Adams and his wife discuss the 'abominable <u>Executive conspiracy</u> going on against the lives of the Africans.'" (p. 231)</p> | <p>John Quincy Adams thinks to himself over and over: "How shall I [] find means to defeat and expose the <u>abominable conspiracy-Executive and Judicial--of this Government</u> against the lives of these wretched men?" (p. 256)</p> | <p>Similarity arises from historical fact:</p> <p>John Quincy wrote in his Memoirs: "I read [an article] with deep anguish of heart, and a painful search of means to defeat and expose the <u>abominable conspiracy</u>, Executive and Judicial, of this Government against the lives of those wretched men." (Shaeffer Supp. Decl., Ex B, Adams Memoirs at 373</p> |

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| | | (emphasis added.) |
| 77. President Van Buren interferes with the Amistad case. | President Van Buren and the administration try to intervene and influence the case. (pp. 150, 160, 166, 176-78, 184, 203, 208-10, 212, 218-19, 222-23, 226-27, 228-30, 235-36, 238, 240-42, 246). | Not similar. President Van Buren's interference is an historical fact. The expression of that fact is different in the two works. In <u>Echo of Lions</u> , Martin Van Buren is an actor on stage -- we see him interfering. In <u>Black Mutiny</u> , we only hear about his interference; we never see him or hear his voice. |
| 78. Queen Victoria expresses concern over the fate of the <i>Amistad</i> Africans. (pp. 265-66) | With John Quincy Adams' help, British Prime Minister Henry Fox writes a letter, expressing Queen Victoria's concern over the fate of the <i>Amistad</i> Africans, to Secretary of State Forsyth. (pp. 258-59). <i>Note: Henry Fox was not the Prime Minister. He was the Minister representing the government of Great Britain in Washington. The Prime Minister was Lord Melbourne (Shaeffer Supp. Dec. Ex. F.)</i> | Not similar. In <u>Echo of Lions</u> , we see Queen Victoria writing a letter expressing concern over the fate of the <i>Amistad</i> Africans. The same device appears in the shooting script of <u>Amistad</u> . In <u>Black Mutiny</u> , the letter, drafted in consultation with John Quincy Adams, is from the British Minister to the United States to Secretary of State Forsyth. The letter is dated January 20, 1841. (Shaeffer Decl., Ex. 13.) |

| <u>ECHO OF LIONS</u> | <u>BLACK MUTINY</u> | <u>RESPONSE</u> |
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| | | <p>This is consistent with the historical record. Queen Victoria did not direct Fox to write the letter; John Quincy Adams suggested that he write it. Mr. Fox had had no communications with his government on the Amistad matter: He was in Washington, and wrote the letter on the advice of John Quincy Adams. On January 18, 1841, two days before the date of the letter, Adams writes in his Memoirs: "Mr. Fox came, and conversed with me concerning the Amistad case. He has not had any correspondence with this Government on the subject, and I advised him to address a note to the Secretary of State concerning it, immediately." (Shaeffer Supp. Decl., Ex. B, Adams Memoirs at 400.)</p> <p>Queen Victoria did not request that a letter be written, and did not even know that such a letter had been sent.</p> |
| <p>79. "The present Chief Justice, Roger B. Taney . . . opened the trial . . ." Baldwin and Adams for defense. (p. 327)</p> | <p>Chief Justice Taney speaks for Court; Adams and Baldwin before Supreme Court. (p. 266)</p> | <p>Not similar.</p> <p>In <u>Echo of Lions</u>, Taney speaks for the Court on the day oral argument begins.</p> |

| <u>ECHO OF LIONS</u> | <u>BLACK MUTINY</u> | RESPONSE |
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| | | <p>At page 266 of <u>Black Mutiny</u>, Taney speaks for the Court when Adams requests an adjournment of proceedings to attend a funeral. Taney says "Certainly."</p> <p>Justice Taney was a member of the <u>Amistad</u> court. (<u>Amistad</u>, 40 U.S.518 (1841.)</p> |
| <p>80. In Adams' oral argument before the Supreme Court, Adams focuses on themes of justice and the interference of the President in the judicial proceedings. (pp. 330-37)</p> | <p>Adams' argument focuses on discussion of justice and the interference of the President. (pp. 271-77)</p> | <p>Similarity arises from historical fact: <u>See generally</u> Shaeffer Supp. Decl., Ex. G, Oral Argument of John Quincy Adams.</p> |
| <p>81. "I derive consolation from the thought that this court is a Court of JUSTICE." (p. 330)</p> | <p>"I derive consolation from the thought that this Court is a Court of JUSTICE." (p. 271)</p> | <p>Similarity arises from historical fact:</p> <p>This is a direct quote from the oral argument of John Quincy Adams. (Shaeffer Supp. Decl., Ex. G at 3.)</p> |
| <p>82. "There is no law, statute or constitution, no code, no treaty, applicable to the proceedings of the Executive or the Judiciary, except that law." John Quincy Adams pointed in the direction of the Declaration of Independence, hanging against one of</p> | <p>"I know of no law, but one which I am not at liberty to argue before this Court, no law, statute, or constitution, no code, no treaty applicable to the proceedings of the Executive or the Judiciary, except that law -" (p. 274)</p> | <p>Similarity arises from historical fact:</p> <p>Part of the oral argument of John Quincy Adams. (Shaeffer Supp. Decl., Ex. G at 8-9.)</p> |

| <u>ECHO OF LIONS</u> | <u>BLACK MUTINY</u> | RESPONSE |
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| <p>the pillars of the chamber. "I know of no other law that reaches the case of my clients, but the law of Nature and of Nature's God on which our fathers placed our own national existence." (pp. 330-31)</p> | <p>"He pointed to the copy of the Declaration of Independence hanging against one of the pillars of the Court Room."</p> <p>"That law, two copies of which are ever before the eyes of your Honors. I know of no other law that reaches the case of my clients, but the law of nature and of Nature's God on which our father placed our own national existence." (p. 274)</p> | |
| <p>83. Adams reads to the Court from the Secretary of State to the federal marshal of New Haven about the order of the President to deport the Africans aboard the Grampus. Quincy Adams interprets the order as emanating from the President. (p. 336.)</p> | <p>"After this summary, Adams began building his evidence to prove the Executive had tried to use pressure on the Judiciary. He read letters of assurance to the Chevalier de Argaiz from Forsyth, he cited the eagerness of the Executive to furnish counsel to the Spaniards while denying it to the Africans, he exposed the whole miserable dealings between Holabird and the White House. As final proof, he showed the <u>Grampus</u> waiting in New Haven Harbor under Executive order to return the Africans to Havana for Spanish justice." (p. 275)</p> | <p>Similarity arises from historical fact:</p> <p>The similar portion of these excerpts about the Grampus is part of the oral argument of John Quincy Adams. (Shaeffer Supp. Decl., Ex. G at 64-65.)</p> |

| <u>ECHO OF LIONS</u> | <u>BLACK MUTINY</u> | RESPONSE |
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| 84. Chief Justice Story finds for Africans; they are released (pp. 338-339) | Justice-Story finds for Africans; they are released. (pp. 278-279) | Similarity arises from historical fact: Chief Justice Story finds for the Africans; they are released. (Shaeffer Decl., Ex. 15; Shaeffer Supp. Decl., Ex. H, Cable at 107.) |
| 85. Cinque and others sail home on the <i>Gentleman</i> . (p. 366) | Cinque and others sail home on the <i>Gentleman</i> . (p. 298) | Similarity arises from historical fact: Cinque and others sail home on the <i>Gentleman</i> . (Shaeffer Supp. Decl., Ex. H, Cable at 131-32.) |
| 86. Upon his return to Africa, Cinque sees Mbake and the following dialogue-takes place: "Bayeh Bia?" "Taken on the War Road." " "Madawea?" "Taken on the War Road." "Gewo!" "Taken on the War Road." "Kosokilisia?" "Taken on the War Road." Father?" "Gone on the War Road. . . ." (p. 371) | Upon his return to Africa, Cinque sees his brother-in-law and the following dialogue takes place: "Where is my father?" Cinque asked. "Gone on the war road." "Tafe?" "Gone on the war road." "My children?" "The same." (p. 303) | Similarity arises from historical fact: Upon their return to Africa, the <i>Amistad</i> Africans "found relatives in the crowd or heard news of their families." At the time of their return, the country of the Mende was in a state of war. (Shaeffer Supp. Decl., Ex. H, Cable at 135, 136.) The War Road is "a road dangerous to pass, for fear of being taken captive." (Shaeffer Supp. Decl., Ex. D, Barber at 15.) |

| <u>ECHO OF LIONS</u> | <u>BLACK MUTINY</u> | RESPONSE |
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| 87. "For thirty-one years, I forgot the <u>Amistad</u> , and now that I am dying at the mission at Komende in Sherbo . . ." (p. 372) | Cinque goes back to the mission to die. (309-10) | Similarity arises from historical fact: Cinque goes back to the mission to die. (Shaeffer Supp. Decl., Ex. H, Cable at 149-50.) |
| 88. Imagery of <i>Amistad</i> case as "thunder" leading to civil war: "rumbled southwards along the Atlantic coast and the marshes of Delaware, across the Schuykill River Valley to a place they call Gettysburg." (p. 372) | John Quincy Adams compares the anti-slavery movement to thunder: "In speaking for Cinque," Adams added his voice to "rumbling thunder" and says "the course of the United States led directly to civil wa.. (p. 256) | Not similar. The expression of the image in the two works is completely different. Plaintiff has distorted the text of <u>Echo of Lions</u> . After Cinque returns to Africa in January <u>1842</u> , he "lift[s his] arms outwards for enough breath to carry an otherworldly shout, terrible and maledictory, undulating back over the ocean I have just crossed." Thirty years later he is told that "on the day I speak of, the twenty-eighth of January, <u>1842</u> , three thousand miles away, thunder, impossible in that month in New England, was heard over the New Haven jailhouse and across Montauk Bay. Like the echo of lions, it rumbled southwards across the Atlantic coast and the marshes of Delaware, across the Schuykill River Valley to a place they call Gettysburg." (Shaeffer Decl., Ex. 108 at 372.) |

