

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF VENTURA  
VENTURA

COPY

MINUTE ORDER

DATE: 02/10/2012

TIME: 10:44:00 AM

DEPT: 42

Judicial Officer Presiding: Henry Walsh  
CLERK: Hellmi McIntyre  
REPORTER/ERM:

CASE NO: 56-2011-00390745-CL-CL-VTA

CASE TITLE: Citibank (South Dakota) N.A. vs. Austin

CASE CATEGORY: Civil - Limited CASE TYPE: Rule 3.740 Collections

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EVENT TYPE: Ruling on Submitted Matter

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APPEARANCES

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The Court, having previously taken the Court Trial (01/03/2012) under submission, now rules as follows:

The court has taken this matter under submission following submission of supplemental points and authorities as requested at the close of evidence.

Judgment is in favor of the defendant.

The issue raised at trial was the foundation for the testimony of Dorothy Ruiz, the litigation analyst for Citibank who was attempting to introduce defendant's account records through the business records exception to the hearsay rule. The court finds that Ms. Ruiz did not offer a sufficient foundation for her to testify as to the preparation and maintenance of the records in question. The court has an intuitive sense that the defendant did incur the charges in question, and has not paid them. That, however, is not good enough. A custodian of records must have some personal knowledge of how the records are kept and prepared. Ms. Ruiz could not do that.

Defendant is the prevailing party, and is entitled to her statutory costs of suit. Counsel for defendant is directed to prepare and submit a form of judgment.

Clerk to give notice.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA**

Ventura  
800 South Victoria Avenue  
Ventura, CA 93009

**SHORT TITLE:** Citibank (South Dakota) N.A. vs. Austin

**CLERK'S CERTIFICATE OF SERVICE BY MAIL (Minute Order)**

**CASE NUMBER:**  
56-2011-00390745-CL-CL-VTA

I certify that I am not a party to this cause. I certify that a true copy of the Minute Order was mailed following standard court practices in a sealed envelope with postage fully prepaid, addressed as indicated below. The mailing and this certification occurred at Ventura, California, on 02/10/2012.

Clerk of the Court, by:

*Hellini Weststrate*

, Deputy

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**CLERK'S CERTIFICATE OF SERVICE BY MAIL**