

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

CITY OF DAYTON,	:	
	:	Case No. 3:11-cv-383
Plaintiff,	:	
	:	Magistrate Judge Michael J. Newman
-vs-	:	(Consent Case)
	:	
A.R. ENVIRONMENTAL, INC., <i>et al.</i> ,	:	
	:	
Defendants.	:	

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**ORDER RESCINDING SHOW CAUSE ORDERS TO THIRD-PARTY  
DEFENDANTS AGIS SURETY COMPANY AND AMERICAN CONTRACTORS  
INDEMNITY COMPANY**

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On September 20, 2012, the Court issued separate Orders to Third-Party Defendants Agis Surety Company (“Agis”) and American Contractors Indemnity Company (“ACI”) for each company to show cause why a default judgment should not be entered against it. *See* docs. 106, 107. Pursuant to the Court’s Orders, the Clerk mailed copies of these Show Cause Orders to the address where the summonses were executed: c/o Anthony Balzano, Agis Surety Company/American Contractors Indemnity Company, 5953 Glenway Avenue, Cincinnati, Ohio 45238. *See* docs. 88, 89. On September 25, 2012, counsel for Third-Party Defendant American Contracting Services, Inc. (“ACI”) (a party that is now dismissed from this case) filed a Notice advising the Court that Anthony Balzano is not an agent of either Agis or ACI, and not authorized to accept service for either company. *See* doc. 108.

The Court cannot issue a default judgment against a party who has not been properly served. *LSJ Inv. Co. v. O.L.D., Inc.*, 167 F.3d 320, 322 (6th Cir. 1999). Accordingly, the Court's previous Show Cause Orders to Agis and ACI (docs. 106, 107) are hereby **RESCINDED**.

September 28, 2012

s/ **Michael J. Newman**  
United States Magistrate Judge