

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

WAI FENG TRADING CO. LTD, and	:	
EASTERN FOUNDRY & FITTINGS, INC.,	:	
Plaintiffs,	:	
	:	
v.	:	C.A. No. 13-33S
	:	
QUICK FITTING, INC.,	:	
Defendant.	:	
	:	
		<u>Consolidated with</u>
	:	
QUICK FITTING, INC.	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 13-56S
	:	
	:	
WAI FENG TRADING CO., INC., and	:	
EASTERN FOUNDRY & FITTINGS, INC.	:	
a/k/a EFF MANUFACTORY CO, LTD.,	:	
Defendants.	:	

**MEMORANDUM AND ORDER**

Before the Court for determination (28 U.S.C. § 636(b)(1)(A), DRI LR Cv 72(a)) is the Motion of Wai Feng Trading Co. Ltd (“Wai Feng”) and EFF Manufactory Co. Ltd. (“EFF”) for Protective Order (ECF No. 52 in C.A. No. 13-33 and ECF No. 60 in C.A. No. 13-56) regarding the location of the depositions of Andrew Yung, Jack Yung and Jimmy Yung (“the Yungs”) and of the Fed. R. Civ. P. 30(b)(6) depositions of Wai Feng, EFF and Eastern Foundry & Fittings, Inc. (“EFF Inc.”) (collectively, “the Deponents”). Quick Fitting, Inc. (“Quick Fitting”) seeks to have all of the Deponents compelled to appear in Rhode Island.

The general presumption is that the deposition of a corporation through its agents should be taken at its principal place of business and that individuals should be deposed near their

residence. Ambac Assurance Corp. v. Adelanto Pub. Util. Auth., No. 09 Civ. 5087(JFK), 2012 WL 1589597, at \*6 (S.D.N.Y. May 7, 2012); Custom Form Mfg., Inc. v. Omron Corp., 196 F.R.D. 333, 336 (N.D. Ind. 2000). A competing presumption augers in favor of compelling a plaintiff to come to the jurisdiction where the suit is pending, but this principal is neutralized by the status of these Deponents, who are aligned as plaintiffs in one of the consolidated cases and as defendants in the other. See Mill-Run Tours, Inc. v. Khashoggi, 124 F.R.D. 547, 549-50 (S.D.N.Y. 1989). At bottom, “the trial court has great discretion in establishing the time and place of a deposition.” In re Standard Metals Corp., 817 F.2d 625, 628 (10th Cir. 1987).

Balancing these factors, and in light of all of the facts presented to the Court by the affidavits and arguments presented by the parties, the Court determines that justice is best served by compelling Wai Feng, EFF and EFF Inc. to produce their witnesses, including the Yungs, in Toronto, Canada, and to balance any inconvenience to Quick Fitting by requiring Wai Feng, EFF and EFF Inc. to reimburse its reasonable travel expenses for one person to fly to Toronto and stay at a hotel and to transport samples needed for the depositions. Accordingly, and for the reasons stated at the hearing, the Motion is granted in part and denied in part as follows:

1. The six depositions that are the subject of the Motion for Protective Order shall proceed in Toronto, Canada, provided that:
  - i. Wai Feng, EFF and EFF, Inc. shall (with the responsibility imposed jointly and severally) pay for the cost of one person to travel (round trip) between Rhode Island and Toronto and to stay in Toronto to take each of the depositions. Travel shall occur by the most reasonably inexpensive economy class ticket available and accommodations shall be appropriate for mid-range business travel.
  - ii. Wai Feng, EFF and EFF, Inc. shall (with the responsibility imposed jointly and severally) pay for the round trip cost of transporting samples to be used by Quick Fitting’s attorney at the depositions. They shall not be responsible for the cost of transporting documents.

2. If any of the Deponents appear in Rhode Island for the deposition, the obligation to reimburse for travel shall not apply to that deposition.
3. This Order addresses the location of depositions only for the Deponents named in the Motion for Protective Order; it does address the deposition location for any other entity or person.
4. Mindful that a motion to deconsolidate and sever claims is currently pending in these consolidated cases, the Deponents that are named in both cases (or testifying on behalf of named parties in both cases) are to be deposed one time in each case. At the discretion of Quick Fitting, it may conduct the deposition of a Deponent in both C.A. No. 13-33 and C.A. No. 13-56 at the same time, or it may conduct the deposition in C.A. No. 13-33 on one date, and the deposition in C.A. No. 13-56 on another date.

So ordered.

ENTER:

/s/ Patricia A. Sullivan  
PATRICIA A. SULLIVAN  
United States Magistrate Judge  
May 23, 2014