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Background to the dispute

Seaton and Stonewall were suing Cavell and Mr Randall in the New York courts alleging that they fraudulently concealed the existence of a Collaboration Agreement delegating claims handling activities to Seaton and Stonewall's reinsurer, National Indemnity Company, a Berkshire Hathaway subsidiary. The allegations relate to the period between 1999 and early 2006 when Cavell was managing the run-offs of Seaton and Stonewall.

From late 2005 the owners of Seaton and Stonewall, Dukes Place Holdings LP, an affiliate formed by Greenwich Street Capital Partners II LP, a New Jersey hedge fund ("GSC"), pressured Cavell to withdraw from the management of Seaton and Stonewall. In early 2006 Cavell agreed to the termination of its contracts and entered a settlement agreement (known as the Term Sheet) which, inter alia, provided that Dukes Place released Cavell and Mr Randall from all claims related to the run-offs, except claims in fraud. The parties to the agreement submitted all future disputes to the exclusive jurisdiction of the English court.

On 14 May 2008, the New York court concluded that the terms of the settlement agreement required Seaton and Stonewall to bring their alleged claims before the English court and dismissed the action before the New York court. Seaton and Stonewall filed notice of appeal in New York on 22 May.

Seaton and Stonewall are understood to have spent considerable sums in legal fees pursuing the New York action.

Meanwhile, Cavell and Mr Randall, who strongly refute all of the allegations, have commenced their own proceedings against Seaton and Stonewall in the English Commercial Court seeking declarations and damages for breach of the settlement agreement.

Seaton and Stonewall had been seeking to stay the English proceedings, pending the hearing of the New York proceedings. Their application for an outright stay of the English proceedings was rejected in the English Commercial Court by Mr Justice Flaux in a judgment delivered on 11 April 2008. At a hearing on 23 May, Mr Justice Flaux ordered that the trial of the preliminary issues take place later this year. It is anticipated that the trial will be fixed for October or November 2008.

The English court indicated that the trial of the preliminary issues in England should proceed before the hearing of Seaton and Stonewall's appeal in New York against that court's dismissal of their New York action.

The dismissal of Seaton and Stonewall's New York proceedings against Cavell and Mr Randall is the latest chapter in a complex legal saga initiated by Seaton and Stonewall, against their reinsurer, National Indemnity Company, and former run-off manager, Cavell.

Seaton and Stonewall failed in a 2007 arbitration to persuade two separate US arbitration panels that National Indemnity's reinsurance coverages ought to be rescinded and National Indemnity removed as their claims servicer. Seaton and Stonewall have recently filed duplicative arbitration demands, again seeking rescission of the reinsurance agreements.

National Indemnity responded in April 2008 with a New York federal suit seeking to enjoin the new arbitrations on the basis that the issue had already been resolved. National Indemnity has also filed a further New York federal law suit alleging GSC, Dukes Place, the run-off group Enstar (formerly Castlewood) and several affiliated entities had conspired to remove National Indemnity as claim servicer so that the two insurers (Seaton and Stonewall) can be sold. This Complaint alleges that prior to the arbitration rulings and while Cavell was still run-off manager, GSC commenced negotiations to sell the two insurers to an affiliate company of Enstar. The Complaint further alleges that GSC and Enstar launched efforts to coerce National Indemnity to forego its right to control claims under its reinsurance agreements to facilitate a sale of the companies.