



## *K2 Underscores The Power Of Precedent, Law360*

*By Kevin M. Mattessich and Todd D. Kremin*

*Law360, New York (March 12, 2014, 2:01 PM ET) — It has long been the law in New York that an insurer does not waive the right to raise policy exclusions in a coverage dispute even if it is contended the insurer initially breached a duty to defend the underlying lawsuit. In a recent victory for the insurance industry, New York Court of Appeals after hearing reargument in K2 Investment Group LLC v. American Guarantee & Liability Insurance Co., (Feb. 18, 2014) the Court of Appeals held that this is still the controlling rule.*

*The original K2 decision was cited in support of “coverage by estoppel” arguments by policyholders contending insurers were stripped of all rights under a policy once ...*