

Book V.
Title LXI.

Concerning the appointment of a manager by the guardian or curator.
(De actore a tutore seu curatore dando.)

Bas. 37.8.28.

5.61.1. Emperor Alexander to Sebastianus.

Neither guardians nor curators can, upon their own authority appoint a procurator in connection with the property of a minor—under or over the age of puberty, but should appoint a manager-actor. But such minors may, by consent of a guardian or curator, appoint a procurator for bringing or defending an action. If issue has been joined by guardians and procurators themselves they may appoint procurators, just as procurators who have acted in joining the issue.

Promulgated May 14 (229).

5.61.2. Emperors Diocletian and Maximian and the Caesars to Alphocratio.¹

If your sons are emancipated and became the heirs of their mother, you cannot, although it is shown that you are their guardian, claim their property in your absence by a procurator but you must do so by a manager (actor) appointed by a decree.

Subscribed at Sirmium January 5 (294).

Note.

A procurator and actor were both agents, but the point here is that an agent (actor) of an absent guardian was required to be appointed by and with the consent of the court, and he only could act for the guardian and at the latter's peril. An agent—procurator—who had not been appointed by consent of the court had no such rights. An actor, in other words, was a representative of another representative. See C. 2.12.11 where the principle of the present title is stated.

¹Blume has penciled in above this “C. 2. 12. 11. is duplicate of this.”