

Book V.  
Title XXXVIII.

Concerning the risk of guardians and curators.  
(De periculo tutorum et curatorum.)

Bas. 37.7.60; D. 26.7.

5.38.1. Emperor Alexander to Occintus.

Freedmen also who on account of the knowledge in their possession are appointed as guardians, though the sole power of managing the affairs of minors under or over 25 years of age is not entrusted to them on account of their poverty, are all, nevertheless, responsible (for mismanagement) whether they have concealed, for their own benefit, what they ought to know from the (other) guardians or curators, or have been guilty of fraud, or have participated therein with others, or have failed in their duty or respect, when they should accuse (their co-guardians or co-curators) of misconduct.  
Promulgated January 24 (226).

5.38 2. The same Emperor to Saturus.

Persons who manage a guardianship in one province are not responsible for the administration of a guardian who manages the property of a ward in another.<sup>1</sup>  
Promulgated July 7 (226).

5.38.3. Emperor Philip and Caesar Philip to Gratianus.

If the property of your ward, under the age of puberty, which you should have had stored in a warehouse or should have sold, was, as you allege, in your home and consumed by fire, you ask without just reason that the loss resulting from your fault or negligence should not be yours, but to that of your ward.  
Promulgated March 30 (245).

5.38.4. The same Emperor and Caesar to Florus.

Many rescripts have stated that guardians and curators should not be responsible for accidental losses against which they could not provide.  
Promulgated August 21 (245).

5.38.5. Emperors Diocletian and Maximian to Severus.

If you were appointed as guardian pursuant to a petition to the court or pursuant to a testament but you show by clear proof that you did not learn of your appointment, and that this was not due to your negligence, but happened by reason of pardonable want of knowledge, you will not be responsible (as guardian) during the time which passed without your knowledge (of your appointment).  
Promulgated September 11 (290).

5.38.6. The same Emperors and Caesars to Epicletus.

---

<sup>1</sup> [Blume] C. 5.40.2; C. 5.52.

It is consonant with reason that guardians are not responsible for the management of property (of their wards) for the time which follows after guardianship is ended,<sup>2</sup> and the duty of administration has ceased.

Subscribed November 27 (294).

---

<sup>2</sup> [Blume] I. e., after the minor became of the age of puberty. If, however, the management of the property had not been turned over to a curator, the guardian was required to defend the minor in a pending suit. C. 5.48.1.