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12 Dickson Adom, *Constructivism Philosophical Paradigm: Implication for Research, Teaching and Learning*, 4 Global Journal of Arts Humanities and Social Sciences 1 (2016).

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42 Philip Coppel QC, *Information Rights: A Practitioner’s Guide to Data Protection, Freedom of Information and Other Information Rights*, Sweet & Maxwell, 2004, p. 257.

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## The Procedure Construction of the Legacy Administrator System

—A Theoretical Framework for Substantial Promotion of Interaction

Between Substantive and Procedure Law

ZHAO Lei

*Civil Procedure Law of the People's Republic of China (2023 Amendment)* introduced a special procedure for designation of the legacy administrator in response to the needs of the *Civil Code of the People's Republic of China* and judicial practice. However, the procedure construction of the legacy administrator system has not yet been achieved. This article proposes a theoretical framework for studying the procedural construction of the legacy administrator, which consists of three dimensions: the interaction between substantive and procedure law, the non-litigation procedure, and the legal interpretation method. In accordance with the theoretical framework, the logical approach progresses from “how to designate” to “why to designate”. First, we provide normative interpretations for the initiation and adjudication of cases on designation of the legacy administrator under the new Articles 194 and 195. Second, under the interacting empowerment between substantive and procedure law, we accomplish the developmental tasks of establishing the legacy administrator procedure by clarifying the party qualifications of legacy administrator and aligning the litigation procedures with the cases on the designation of the legacy administrator. Finally, we put forward the viewpoint of advancing the institutionalization of the legacy administrator system towards substantial promotion of interaction between substantive and procedure law.

Legacy Administrator; Interaction Between Substantive and Procedure Law;  
Substantial Promotion; Theoretical Framework; Procedure Construction