UNC School of Government
Foreclosure for Clerks of Court
Meredith Smith
For Instructional Purposes

Foreclosure by Power of Sale

Top 10 Hearing Tips and Tricks

1. You don't have to know everything – it is ok to ask a party or a lawyer to explain something further.

2. Take a decision under advisement – deliberate; think about decision when you have time away from the hearing room lights.

3. In response to an objection, ask the person objecting the basis for that objection. Put the responsibility back on them.

4. After an objection is made and explained, if you are still unclear whether the testimony or evidence is admissible, note the objection and allow the testimony. You can take the decision under advisement and do some additional research. If you later determine it is inadmissible, don't rely on the evidence in your decision.

5. If a point of law is unclear at the end of a hearing, ask the attorneys to follow up with additional research in the form of a memorandum of law – just make sure that they copy all sides on any email or other correspondence with the court.

6. Do not rule on things that aren't before you. "If I did this…" or "Would you do that…" are not proper questions of a clerk presiding over a pending matter.

7. The court does not have to accept as true any statement that is in an affidavit and is never bound by a statement that makes a conclusion of law such as "X is the holder of the note."

8. Affidavits must be based on personal knowledge – the person making the affidavit should have observed the matters which they testify about.

9. Remember it is your courtroom and you are in charge – it is your job to ensure everyone is treated fairly and has an opportunity to be heard.

10. Prepare, prepare, prepare – read the clerks' manual, the statute, and the filings before entering the hearing. Know what you are stepping into before you walk through the door.