

Dame Helen Winkelmann, Chief Justice of New Zealand
Swearing in of Associate Judge Elizabeth Gellert

Auckland High Court

Friday 1 August 2025

Kei te mana whenua, tēnā koutou.

E te hūnga roia, tēnā koutou katoa.

Kei te koroua whare, o ngā whare kōti o Aotearoa, e tū, e tū, e koro e.

E te whetū o te rangi nei, Associate Judge Gellert, tēnā koutou ko tō whānau.

Kei aku rangatira, tēnā koutou, tēnā koutou, otirā tēnā tātou katoa.

I acknowledge the mana whenua of this place.

I acknowledge this courtroom as the grandfather of the courts of New Zealand — the oldest operating courtroom in New Zealand.

I acknowledge special guests, retired Associate Judges Ms Hannah Sargisson and Mr Roger Bell.

I welcome the new Associate Judge's whanau. Her partner Ian, children Sophie and Joshua, mother Gillian who joins by AVL from Te Kūiti, father Murray and his wife Christine. Also, her ex-husband Shelley and the extended Gellert whanau.

Associate Judge Gellert and I are joined on the bench today by the Chief High Court Judge, Justice Sally Fitzgerald and other judges of the High Court. We are also joined by AVL by judges sitting in Christchurch.

I am grateful to the kai karanga, Leslie Taylor; and to Justice Johnstone for commencing today's ceremony with a mihi whakatau; and to the rōpū waiata made up of clerks, registry and judicial support staff. Ka rere ngā mihi ki a koutou.

The business of this Court today is the swearing in of a new associate judge of the High Court of New Zealand. Because of the public interest in who our judges are, we hold ceremonies such as this in public so that the public can see and have confidence in our judges.

Today's ceremony is structured to ensure, through the speeches that are made, that the public can learn about Associate Judge Gellert — her experience in life and in the law, her professional accomplishments and her personal qualities and character.

It will not have been lost on you that these proceedings are very ceremonial in nature, using rituals such as counsel bowing, and judges and lawyers dressed in robes. Judges save the colourful ceremonial robes we wear today for court sittings of significance for the system of justice.

But some of the ceremonial ritual you will see today is also used every day in our courts. As the ceremony proceeds, you will notice the very mannered way that counsel conduct themselves. We use this heightened courtesy in all court hearings. It is this courtesy that enables us to work through the difficult issues and conflict that lies behind the cases we hear. It allows each side to put their case and to be listened to as they do so, it requires them to hear the other side's case, and then provides the opportunity to respond to it. Through this process, the courts play an important role in supporting a civil society.

I will shortly begin the formal part of the ceremony when I take the appearances of King's Counsel. They are the most senior lawyers in our legal system, and so have rights of first audience before the court. They attend today to show their respect for the processes of the court, and their respect and support for the new judge.

The Associate Judge's commission from the King will then be read. After that we will then proceed to the business end of the ceremony, the taking of the oaths of office. I will first ask the Associate Judge to take the oath of allegiance. She takes that oath because she will serve as an associate judge under commission from the King.

The other oath she will take is the judicial oath swearing her in as an Associate Judge of the High Court of New Zealand. The Associate Judge will swear to do right to all people, according to the laws and usages of New Zealand, without fear or favour, affection or ill will. This oath demands of each judge that they show the highest levels of skill, impartiality and independence. It is a call to resist prejudice, pressure or a search for popularity. To do the right thing in accordance with the law and the facts no matter what pressures are brought to bear to do otherwise.

After the oaths of office, we will hear speeches from Senior Crown Counsel, Zannah Johnston who will speak on behalf of the Government and from Felicity Monteiro, for the New Zealand Law Society, who will speak on behalf of the profession.

Then the Associate Judge will have an opportunity to speak. But first we begin the ceremony proper by taking the appearances of King's Counsel.

That is the formal part of the ceremony over, and time to relax. Let me be the first to congratulate you, Associate Judge Gellert, on your appointment. It is wonderful that your family is here to share this occasion with you as it is an occasion for celebration. This appointment reflects the confidence the government, the judiciary, and the profession have in your abilities as a lawyer, and your qualities as a person. It is a day for your family to feel proud.

As an associate judge, you will be a specialist civil judge in a court of generalists. Your work will take you into the heart of trust, property, corporate and insolvency law. This is work which sets the basic code by which the economy functions, clarifying the rules by which interests in property are created, determining their extent and nature, and how they rank against each other when there is not enough money to go around.

It is through the work of the associate judges that many of the principles guiding the application of the Companies Act 1993 and the law of equitable interests have been expounded in New Zealand. It has also been through the work of associate judges that the early case law in relation to leaky homes was established. This is important work — important to individuals, businesses, communities and more broadly, the economy.

We will hear about your career from the other speakers. I will mention just a few of the key features of that career, and your work style, that I believe suit you so well for this new role.

The challenge for an associate judge is to judge promptly but well. This enables cases to move smoothly to trial or be resolved summarily.

Although the judgments of an associate judge must be produced efficiently, it is critical to our system of justice that those judgments are sound and that they communicate clearly the basic reasons for the judgment.

Those who have worked with you describe you as legally knowledgeable and accurate — a skilled legal technician, but with a good understanding of commercial context.

You have a breadth of experience in civil and commercial law, but a significant part of your work has focused on the very areas you will most often be called upon to adjudicate — the areas of commercial litigation, securities enforcement, and insolvency. That will be very useful in the early days.

Your reputation is that you are quietly effective but ruthlessly efficient in your work — with an ability to spot the critical issue for determination and create the necessary work product at pace, whether it be an opinion, a pleading or an affidavit.

While associate judges do not have a criminal jurisdiction, they nevertheless are engaged with society's problems. Associate judges deal with the result of economic downturns in the bankruptcy and liquidation court. A good understanding of community and the ability to communicate with those who come before the court are important attributes.

This is especially so in the caveat and bankruptcy lists, which have high numbers of unrepresented litigants. Without legal representation litigants in these lists are at a considerable disadvantage, and the risk of unfairness, the risk of injustice, is thereby heightened. It will be your task to ensure that those who come before you receive a fair hearing, as you work to ensure a just outcome.

You will excel in this area. I am told by former colleagues that you have a keen interest in others. You display a level-headed empathy. You have a down to earth communication style which in the past, sometimes led opponents to underestimate you — to their cost.

I am also told that throughout your career, one of your strengths has been the care you take and the skill you display in explaining complex legal issues in a simple and straightforward way. This to enable your clients to fully participate in the issues affecting them.

This will be a superpower for you, as you work to write judgments which are straightforward and readily comprehensible.

Associate Judge Gellert, we can be confident that you have the abilities required to fulfil this role, and to fulfil it to distinction. On behalf of the judges of the High Court. I welcome you to the bench.

Kia kaha, kia maia, kia manawanui.