PALMER, J., concurring. I concur in the result that the majority reaches because I agree that the trial court was not required to poll the jury as counsel for the plaintiff, David Kervick,[1] requested. As the majority explains, polling the jury is but one alternative that a court may employ to address the possibility that jurors have been exposed to a potentially prejudicial media report, and, in any given case, that course of action may not be preferred because of the risk that informing the jurors of the media account via a jury poll might actually serve to draw their attention to it. I do believe, however, that, under the circumstances of the present case—in particular, the absence of a prior judicial admonition instructing the jurors to avoid any media coverage of the case—the trial court was required to take some action to address the detailed and inflammatory newspaper article that appeared in The New York Times a few days before trial was about to begin.

It is undisputed that, at the time the plaintiff's counsel requested the court to poll the jurors about the article, no judicial officer previously had instructed the jurors not to read or view any media reports about the case. It does appear that a court clerk had informed the jurors, at the time they were selected to serve, to avoid exposure to any media accounts. The record, however, does not reveal the substance of any such instruction or the circumstances under which it was given, except that the jurors received the instruction from the clerk more than three weeks before the article was published and the trial commenced. In contrast to the majority, I am not prepared to conclude that such an instruction necessarily was adequate to relieve the trial court of its responsibility to take any additional action when counsel brought the article to the court's attention. See footnote 5 of the majority opinion ("we conclude that the instruction given by the court clerk was sufficient"); see also part I of the majority opinion ("we conclude that the instruction given by the court clerk in the present case was adequate to convey to the jury the importance of avoiding media coverage of the trial"). Particularly in view of the virtually total lack of information about the content of the instruction and the manner in which it was given, I am unwilling to presume that it was the equivalent of an admonition by the court itself to avoid media reports about the case. Indeed, it seems self-evident that a juror is more likely to remember, and to heed, an admonition from a judge than an instruction from a clerk or other court employee. Undoubtedly, that is why the majority, in exercising this court's supervisory authority to ensure that, in all future civil cases, jurors uniformly are instructed to avoid all publicity about the case, requires that the instruction be conveyed "either orally or in a written order *from the pre-*

siding judge . . . .”[2] (Emphasis added.) Part II of the majority opinion.

In any event, I see no reason in the present case to set a precedent that a court clerk's instruction to avoid media reports about a case, regardless of the instruction's content and its mode of administration, constitutes an adequate substitute for a judicial admonition. I nevertheless believe that the trial court adequately addressed the plaintiff's legitimate concern about the newspaper article by repeatedly advising the jury, beginning on the first day of trial and continuing daily until the jury returned its verdict, to avoid or otherwise disregard any media coverage of the case.[3] Although it would have been preferable for the court also to have directed the jurors to apprise the court of any exposure to such publicity or coverage, I believe that a juror who already had read the newspaper article likely would have disclosed that fact to the court in light of the court's repeated admonition not to view any media reports about the case.

I therefore respectfully concur.

[1] The plaintiff brought the present action in his capacity as executor of the estate of Ruth Farrell.

[2] I wholeheartedly endorse this exercise of our supervisory power.

[3] The majority relies on *State* v. *Merriam*, 264 Conn. 617, 674, 835 A.2d 895 (2003), to support its conclusion that the trial court in the present case, like the trial court in *Merriam*, was free to take no action on counsel's request that the jury be polled following the publication of a potentially prejudicial newspaper article because, as in *Merriam*; see id.; the jurors in the present case previously had been instructed to avoid any such publicity about the case. I disagree with the majority's reliance on *Merriam* because, in that case, the jurors had been advised by the court itself, rather than by a court clerk, to avoid media coverage of the case. Id., 675.