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This Court agrees. After the Court issued its ruling (ECF No. 63), the Nevada Supreme Court issued Jessup II which altered the inquiry for determining futility of tender in the context of an HOA foreclosure sale. The Court finds that its findings of fact in its prior order are insufficient under current Nevada law to support the Judgment in this case. The Court rejects Plaintiff's argument that it can disregard Jessup II. The Court finds Jessup II in conjunction with 7510 Perla Del Mar Avenue Trust v. Bank of America, N.A., 458 P.3d 348 (Nev. 2020) (en banc) to be persuasive authority which it is appropriate to follow as to the inquiry under Nevada law to determine futility of tender. See U.S. Bank, N.A. v. Lone Mt. Quartette Cmty. Ass'n, 2021 U.S. App. LEXIS 7607 at *4 (Mar. 16, 2021) (reversing prior judgment since district court's order was based upon Jessup I).

The Court will therefore vacate its prior judgment and order rebriefing in this case.
For the reasons stated,

IT IS HEREBY ORDERED that Defendant's Motion for Relief (ECF No. 80) is GRANTED. The Judgment (ECF No. 64) in this case is VACATED.

IT IS FURTHER ORDERED that the parties are directed to file dispositive briefs by April 29, 2021 with responses by May 13, 2021 and replies by May 27, 2021.

IT IS FURTHER ORDERED that the Motion to Extend Time (ECF No. 81) is DENIED without prejudice as moot.

DATED: March 31, 2021.



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE