

1 before final judgment it appears that the district court lacks subject matter jurisdiction, the case
2 shall be remanded.” 28 U.S.C. § 1447(c).

3 Here, the court finds the case should be remanded to the Solano County Superior
4 Court. The form complaint filed in the state court is for unlawful detainer only. ECF No. 1.
5 Defendant grounds the removal on the court’s federal question jurisdiction, arguing that “[f]ederal
6 question exists because [d]efendant’s [d]emurrer, a pleading[,] depend [sic] on the determination
7 of [d]efendant’s rights and [p]laintiff’s duties under federal law.” *Id.* at 2. However, plaintiff is
8 the master of the complaint and may “avoid federal jurisdiction by pleading solely state-law
9 claims.” *Valles v. Ivy Hill Corp.*, 410 F.3d 1071, 1075 (9th Cir. 2005). A defendant cannot rely
10 on his answer or demurrer to provide the basis for determining federal question jurisdiction. *See*
11 *Farmco Stores, Inc. v. Newmark*, 315 F. Supp. 396, 397 (E.D. Cal. 1970) (citing *Gully v. F. Nat’l*
12 *Bank*, 299 U.S. 109, 113 (1936)).

13 Accordingly, because plaintiff’s unlawful detainer complaint does not provide a
14 basis for federal question jurisdiction, and defendant’s demurrer cannot provide the basis for
15 removal jurisdiction here, this court cannot exercise subject matter jurisdiction over plaintiff’s
16 single state-law claim for unlawful detainer. This case is REMANDED to Solano County
17 Superior Court.

18 IT IS SO ORDERED.

19 DATED: August 22, 2016

20
21 
22 UNITED STATES DISTRICT JUDGE
23
24
25
26
27
28