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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WLP SYCAMORES APARTMENTS,
LLC,

Plaintiff,

v.

ESTEBAN CIGARROA, and DOES
1 through 10 inclusive,

Defendants.

No. 2:17-cv-0248-KJM-DB PS

ORDER

On February 3, 2017, defendant Esteban Cigarroa, proceeding pro se, removed this unlawful detainer action from Solano County Superior Court. ECF No. 1. Cigarroa also filed a motion to proceed in forma pauperis. ECF No. 2. As explained below, the court REMANDS the case to the Solano County Superior Court and DENIES as moot defendant’s motion to proceed in forma pauperis.

I. SUBJECT MATTER JURISDICTION

A. Legal Standard

When a case “of which the district courts of the United States have original jurisdiction” is initially brought in state court, a defendant may remove it to federal court. 28 U.S.C. § 1441(a). There are two primary bases for federal subject matter jurisdiction: (1) federal

1 question jurisdiction under 28 U.S.C. § 1331, and (2) diversity jurisdiction under 28 U.S.C.
2 § 1332.

3 Under § 1331, district courts have federal question jurisdiction over “all civil
4 actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331.
5 Under the longstanding well-pleaded complaint rule, a suit “arises under” federal law “only when
6 the plaintiff’s statement of his own cause of action shows that it is based upon [federal law].”
7 *Louisville & Nashville R. Co. v. Mottley*, 211 U.S. 149, 152 (1908). Federal question jurisdiction
8 cannot rest on an actual or anticipated defense or counterclaim. *Vaden v. Discover Bank*, 556
9 U.S. 49, 60 (2009).

10 Under § 1332, district courts have diversity-of-citizenship jurisdiction where the
11 amount in controversy exceeds \$75,000 and the parties are in complete diversity. 28 U.S.C.
12 § 1332. “Where it is not facially evident from the complaint that more than \$75,000 is in
13 controversy, the removing party must prove, by a preponderance of the evidence, that the amount
14 in controversy meets the jurisdictional threshold.” *Matheson v. Progressive Specialty Ins. Co.*,
15 319 F.3d 1089, 1090 (9th Cir. 2003) (per curiam).

16 A federal district court may remand a case sua sponte where a defendant has not
17 established federal jurisdiction. *See* 28 U.S.C. § 1447(c) (“If at any time before final judgment it
18 appears that the district court lacks subject matter jurisdiction, the case shall be remanded”);
19 *see also Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583–84 (1999).

20 B. Discussion

21 Cigarroa’s Notice of Removal asserts the court has federal question jurisdiction
22 under § 1331 because “Defendant’s Answer, a pleading depend [sic] on the determination of
23 Defendant’s rights and Plaintiff’s duties under federal law.” ECF No. 1 at 2. Plaintiff’s
24 complaint asserts only a claim for unlawful detainer, which is a matter of state law. *See id.* at 6.

25 As explained above, Cigarroa’s answer or counterclaim cannot serve as the basis
26 for federal question jurisdiction. *Vaden*, 556 U.S. at 60. Plaintiff is the master of the complaint
27 and may, as here, “avoid federal jurisdiction by pleading solely state-law claims.” *Valles v. Ivy*
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1 *Hill Corp.*, 410 F.3d 1071, 1075 (9th Cir. 2005). Because plaintiff’s complaint does not plead a
2 basis in federal law, the court does not have federal question jurisdiction over the action.

3 Neither does the court appear to have diversity jurisdiction. Plaintiff’s complaint
4 seeks possession of the premises, costs and reasonable attorney’s fees, past-due rent of \$1,300.00,
5 forfeiture of the agreement, and damages of \$47.57 per day for each day from January 1, 2017
6 until the date of judgment. ECF No. 1 at 8. Because these damages are not likely to total more
7 than \$75,000, and Cigarroa has provided no other evidence or allegations as to the amount in
8 controversy, the court cannot exercise diversity jurisdiction over the action.

9 II. REQUEST TO PROCEED IN FORMA PAUPERIS

10 For the foregoing reasons, the court has determined sua sponte that it lacks subject
11 matter jurisdiction, and thus remands the case to the Solano County Superior Court. *Cf.*
12 *Matheson*, 319 F.3d at 1090 (“Where doubt regarding the right to removal exists, a case should be
13 remanded to state court.”). As a result, defendant’s motion for in forma pauperis status is moot.

14 III. CONCLUSION

15 For the foregoing reasons, this action is REMANDED to Solano County Superior
16 Court, and defendant’s motion to proceed in forma pauperis is DENIED as moot.

17 IT IS SO ORDERED.

18 DATED: March 21, 2017

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21 UNITED STATES DISTRICT JUDGE
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