

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 upon 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 *Enrich v. Touche Ross & Co.*, 846 F.2d 1190, 1195 (9th Cir. 1988) (citing *Wilson v. Republic*
20 *Iron & Steel Co.*, 257 U.S. 92, 97 (1921)).

21 B. Discussion

22 Rodriguez’s Notice of Removal asserts the court has federal question jurisdiction
23 under § 1331 because “Defendant’s [sic] Demurrer, a pleading[,] depend on the determination of
24 Defendant’s rights and Plaintiff’s duties under federal law.” ECF No. 1 at 3. The complaint
25 plaintiff filed in state court asserts only a claim for unlawful detainer, a matter of state law. *See*
26 ECF No. 1 at 6.

27 As explained above, the court cannot base federal question jurisdiction on
28 Rodriguez’s answer or counterclaim. *Vaden*, 556 U.S. at 60. Plaintiff is the master of the

1 complaint and may, as here, “avoid federal jurisdiction by pleading solely state-law claims.”
2 *Valles v. Ivy Hill Corp.*, 410 F.3d 1071, 1075 (9th Cir. 2005). Because plaintiff’s complaint is not
3 based upon federal law, the court does not have federal question jurisdiction over the action.

4 Neither does the court appear to have diversity jurisdiction. Plaintiff’s complaint
5 is labeled as a “limited” civil case, meaning plaintiff predicts the total damages will not exceed
6 \$10,000. ECF No. 1 at 7. Plaintiff seeks possession of the premises, costs and reasonable
7 attorney’s fees, forfeiture of the agreement, and damages of \$66 per day for each day from
8 February 1, 2017 until the date of judgment. ECF No. 1 at 9. These damages are not likely to
9 total more than \$75,000, and Rodriguez has provided no other evidence or allegations as to the
10 amount in controversy. As such, the court cannot exercise diversity jurisdiction over the action.

11 II. REQUEST TO PROCEED IN FORMA PAUPERIS

12 For the foregoing reasons, the court has determined sua sponte that it does not
13 have subject matter jurisdiction, and thus remands the case to the Sacramento County Superior
14 Court. *Cf. Matheson*, 319 F.3d at 1090 (“Where doubt regarding the right to removal exists, a
15 case should be remanded to state court.”). This order moots defendant’s motion for in forma
16 pauperis status.

17 III. CONCLUSION

18 For the foregoing reasons, this action is REMANDED to Sacramento County
19 Superior Court, and the court DENIES as moot defendant’s motion to proceed in forma pauperis.

20 IT IS SO ORDERED.

21 DATED: April 26, 2017.

22
23 
24 UNITED STATES DISTRICT JUDGE
25
26
27
28