

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 Defendants’ Notice of Removal asserts the court has federal question jurisdiction
23 under § 1331 because “Defendant’s Demurrer, a pleading depend [sic] on the determination of
24 Defendant’s rights and Plaintiff’s duties under federal law.” ECF No. 1 at 2. The complaint
25 plaintiff filed in state court asserts only a claim for unlawful detainer, which is a matter of state
26 law. See ECF No. 1 at 6.

27 As explained above, defendants’ answer or counterclaim cannot serve as the basis
28 for federal question jurisdiction. *Vaden*, 556 U.S. at 60. Plaintiff is the master of the complaint

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

5 Neither does the court appear to have diversity jurisdiction. Plaintiff’s complaint
6 seeks possession of the premises, costs and reasonable attorney’s fees, past-due rent of \$3,513.00,
7 forfeiture of the agreement, and damages of \$41.66 per day for each day from August 1, 2017,
8 until the date of judgment. ECF No. 1 at 8. Because these damages are not likely to total more
9 than \$75,000, and defendants have provided no other evidence or allegations as to the amount in
10 controversy, the court cannot exercise diversity jurisdiction over the action.

11 II. REQUEST TO PROCEED IN FORMA PAUPERIS

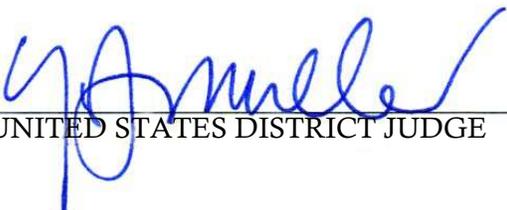
12 For the foregoing reasons, the court has determined sua sponte that it lacks subject
13 matter jurisdiction, and thus remands the case to the Solano County Superior Court. *Cf.*
14 *Matheson*, 319 F.3d at 1090 (“Where doubt regarding the right to removal exists, a case should be
15 remanded to state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

17 III. CONCLUSION

18 For the foregoing reasons, this action is REMANDED to Solano County Superior
19 Court, and defendants’ motions to proceed in forma pauperis are DENIED as moot.

20 IT IS SO ORDERED.

21 DATED: September 11, 2017.

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23 
24 UNITED STATES DISTRICT JUDGE
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