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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

IRONGATE INVESTORS, LLC,

Plaintiff,

v.

LAUREN KING, and DOES 1 through 10
inclusive,

Defendants.

No. 2:17-cv-2583-KJM-KJN PS

ORDER

On December 11, 2017, *pro se* defendant Lauren King removed this unlawful detainer action from Sacramento County Superior Court. ECF No. 1. King also filed a motion to proceed *in forma pauperis*. ECF No. 3. As explained below, the court REMANDS the case to the Sacramento County Superior Court and DENIES as moot defendant’s motion to proceed *in forma pauperis*.

I. LEGAL STANDARD: SUBJECT MATTER JURISDICTION

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

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

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

14 A federal district court may remand a case *sua sponte* where a defendant has not
15 established federal jurisdiction. *See* 28 U.S.C. § 1447(c) (“If at any time before final judgment it
16 appears that the district court lacks subject matter jurisdiction, the case shall be remanded”);
17 *Enrich v. Touche Ross & Co.*, 846 F.2d 1190, 1195 (9th Cir. 1988) (citing *Wilson v. Republic*
18 *Iron & Steel Co.*, 257 U.S. 92, 97 (1921)).

19 II. DISCUSSION

20 Defendant’s Notice of Removal asserts the court has federal question jurisdiction
21 under § 1331 because “Defendant’s Demurrer, a pleading depend [sic] on the determination of
22 Defendant’s rights and Plaintiff’s duties under federal law.” ECF No. 1 at 2. The complaint
23 plaintiff filed in state court asserts only a claim for unlawful detainer, which is a matter of state
24 law. *See id.* at 5.

25 As explained above, defendant’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 show it
2 is based upon 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 \$1,450.00,
5 forfeiture of the agreement, and damages of \$47.33 per day for each day from November 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 defendant has provided no other evidence or allegations as to the amount in
8 controversy, the court cannot exercise diversity jurisdiction over the action.

9 III. CONCLUSION

10 The court has found no proper basis to exercise subject matter jurisdiction over
11 this case. The case is therefore REMANDED to the Sacramento 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.”). Defendant’s motion to proceed *in forma pauperis*, ECF No. 3, is
14 DENIED as moot.

15 IT IS SO ORDERED.

16 DATED: December 18, 2017.

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19 UNITED STATES DISTRICT JUDGE
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