

1 I. STANDARD

2 When a case “of which the district courts of the United States have original
3 jurisdiction” is initially brought in state court, a defendant may remove it to federal court. 28
4 U.S.C. § 1441(a). There are two primary bases for federal subject matter jurisdiction: (1) federal
5 question jurisdiction under 28 U.S.C. § 1331, and (2) diversity jurisdiction under 28 U.S.C.
6 § 1332.

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

14 Under § 1332, district courts have diversity-of-citizenship jurisdiction where the
15 amount in controversy exceeds \$75,000 and the parties are in complete diversity. 28 U.S.C.
16 § 1332. “Where it is not facially evident from the complaint that more than \$75,000 is in
17 controversy, the removing party must prove, by a preponderance of the evidence, that the amount
18 in controversy meets the jurisdictional threshold.” *Matheson v. Progressive Specialty Ins. Co.*,
19 319 F.3d 1089, 1090 (9th Cir. 2003) (per curiam).

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

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