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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CAREFREE NATOMAS, LP,

Plaintiff,

v.

THOMAS PINON, DEBRA FREEMAN,
DOES 1 to 10,

Defendants.

No. 2:18-cv-00617-KJM-AC
ORDER

On March 22, 2018, defendants Thomas Pinon and Debra Freeman, proceeding pro se, removed this unlawful detainer action from Sacramento County Superior Court. ECF No. 1. Defendants also filed motions to proceed in forma pauperis. ECF Nos. 2-3. As explained below, the court REMANDS the case to the Sacramento County Superior Court and DENIES as moot defendants’ motions 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. 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 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 “[t]he complaint presents federal questions.” ECF No. 1 at 2. More
24 specifically, defendants contend a “[f]ederal question exists because [d]efendant’s [a]nswer, a
25 pleading depend [sic] on the determination of [d]efendant’s rights and [p]laintiff’s duties under
26 federal law.” *Id.* Yet the complaint plaintiff filed in state court asserts only a claim for unlawful
27 detainer, which is a matter of state law. *See* ECF No. 1 at 6.

1 As explained above, defendants' answer cannot serve as the basis for federal
2 question jurisdiction. *Vaden*, 556 U.S. at 60. Plaintiff is the master of the complaint and may, as
3 here, "avoid federal jurisdiction by pleading solely state-law claims." *Valles v. Ivy Hill Corp.*,
4 410 F.3d 1071, 1075 (9th Cir. 2005). Because plaintiff's complaint does not show that it is based
5 on federal law, the court does not have federal question jurisdiction over the action.

6 Neither does the court appear to have diversity jurisdiction. Plaintiff's complaint
7 seeks possession of the premises, costs and reasonable attorney fees, past-due rent of \$2,413.00,
8 forfeiture of the agreement and damages of \$40.23 per day for each day from March 1, 2018 until
9 the date of judgment. ECF No. 1 at 8. Moreover, the complaint indicates that the amount
10 demanded "does not exceed \$10,000." *Id.* at 6. Because these damages are not likely to total
11 more than \$75,000, and defendants have provided no other evidence or allegations as to the
12 amount in controversy, the court cannot exercise diversity jurisdiction over the action.

13 **II. REQUEST TO PROCEED IN FORMA PAUPERIS**

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

19 **III. CONCLUSION**

20 For the foregoing reasons, this action is REMANDED to Sacramento County
21 Superior Court, and defendants' motions to proceed in forma pauperis are DENIED as moot.

22 IT IS SO ORDERED.

23 DATED: April 4, 2018.

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26 UNITED STATES DISTRICT JUDGE
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